

HOW CANADA IS GOVERNED.

REVISED EDITION



BOURINOT

UNIVERSITY OF CALIFORNIA
AT LOS ANGELES







HOW CANADA IS GOVERNED

A SHORT ACCOUNT

OF ITS

EXECUTIVE, LEGISLATIVE, JUDICIAL AND
MUNICIPAL INSTITUTIONS

WITH

*AN HISTORICAL OUTLINE OF THEIR ORIGIN
AND DEVELOPMENT*

WITH NUMEROUS ILLUSTRATIONS

BY THE LATE

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HISTORY, PARLIAMENTARY PRACTICE AND PROCEDURE IN CANADA, AND
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OF THE DOMINION

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EXCEPT THE PART VI ON SCHOOLS, WHICH IN MOST INSTANCES HAS BEEN REVISED AND
EDITED BY THE EDUCATION DEPARTMENT OF EACH INDIVIDUAL PROVINCE

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PREFATORY NOTE.

THIS little volume is intended to present such a succinct review of the public institutions of Canada as will be easily understood by all classes of her people. The first duty of citizens in every country is to make themselves thoroughly acquainted with the nature and operation of the system of government under which they live. Without such a knowledge, a man is very imperfectly equipped for the performance of the serious responsibilities which devolve upon him in a country where the people rule. No amount of so-called "practical experience" can compensate a man for ignorance of the elementary principles of political science, and of the origin, development and methods of his own government.

I have kept steadily in view the requirements of that great mass of people, old and young, men and women, who have few opportunities of obtaining special knowledge of institutions of government. I have avoided all technical language wherever it is possible, and in every case have explained such words and phrases which, although in general use, are not always understood even by those on whose lips they are most frequent.

I have attempted to make this citizen's manual as complete as possible within the limited space at my disposal. I have borne in mind the fact that a Canadian is not merely a citizen

of Canada, and as such has duties and obligations to discharge within the Dominion and Province, but that he is also a citizen of the greatest and noblest empire that the world has ever seen. Consequently one of the most important parts of this book is devoted to a brief account of the onerous functions of the sovereign, who, through her national councils, executive and legislative, administers the affairs of Great Britain and Ireland, and of her many colonies and dependencies. The third part describes the nature and methods of the general government of the Dominion; the fourth part deals with the powers of the several provincial authorities that compose the federal union, and with the organization and procedure of the courts of law; the fifth part outlines the working of the municipal system, in which all classes of citizens should be so deeply interested; the sixth part indicates the manner in which our public schools are administered by the government and people in every province; the seventh part briefly explains the mode in which the territorial districts of the Northwest are governed before they have reached the dignity of provinces in the full possession of responsible government. In the Appendix I give the text of the constitution or British North America Act of 1867, and amending acts in full. At the end of each Part of the volume I add references to such authorities as will be most useful to those persons who wish to go thoroughly into the study of institutions.*

In closing the book I say a few words with respect to the duties and responsibilities that devolve upon all classes of Canadians as citizens of a self-governing country. These words are very inadequate when we consider the wide scope

* Now placed together at p. 311.

and importance of the subject, and all I can pretend to hope is that they may serve to stimulate thoughtful men and women—especially those young men just assuming the obligations of citizenship—to think deeply on the problems of government which are every day presenting themselves for solution, and perhaps encourage them in a desire to perform their full share in the active affairs of a Dominion yet in the early stages of its national life.

J. G. BOURINOT.

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FIRST PART.

GROWTH OF THE CONSTITUTION

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HOW CANADA IS GOVERNED.

CHAPTER I.

DEFINITIONS OF WORDS AND PHRASES USED IN THIS BOOK.

- 1. Introduction.—2. Government.—3. Law of the Land. 4. Executive, Legislative and Judicial Powers.—5. Administration. 6. Parliament.—7. Conclusion.*
-

1.—Introduction.

IN the course of this book it will be necessary to use certain words and phrases which are constantly in the mouths of those who speak of the institutions of government in a country. Among these words are "government," "law," "constitution," "administration," "parliament," "executive power," "legislative power," and "judicial power," the meaning of which it is important to explain at the very commencement, so that the reader may thoroughly understand the subjects with which this book professes to treat. It is always difficult—indeed in some respects impossible—to give short and exact definitions of terms of government which cover so vast a ground of human experience as those in question. All that I shall attempt to do is to give such explanations as will suffice for the intelligent reading of a book which is not written for the scholar, or lawyer, or

professor, who has mastered these subjects, but for the student entering on the study of Canadian government and for that large body of people who are absorbed in the engrossing employments of life and have but few opportunities for reading of this class.

2.—Government.

In every organized society or community of persons like the Dominion of Canada, there must be some machinery, or system of rules, by which the individual actions of the members composing that society, and their relations with one another can be regulated for the good of one and all. The machinery or system of rules which performs this all important work is called *The Government*, which, followed to its old Greek origin, means to steer the ship. To steer "the ship of state" means to govern or direct its movements. The true object of this directing power is the security of life and property, and the well-being and happiness of the whole community. The forms that government takes are numerous. There is no more interesting study than that which traces the development of the different stages of government; from the earliest of all, the family, in which the parent rules, down to the composite forms which have grown up in the course of thousands of years to meet the varied conditions of modern society. Canada though still dependent in certain matters on the parent state exercises most extensive powers of self-government; and that government follows in form and principles the system of government of the parent state.

In the first place, Canada is under a *monarchical* form of government, because at the head of her affairs and of

the whole empire is the monarch or sovereign, not chosen from time to time by popular vote, but wearing the crown by hereditary right. In the second place, Canada is under a *parliamentary* form of government, because the power of making the laws is vested in a body called a parliament. This body consists of the sovereign and two houses one consisting of members appointed by the sovereign on the advice of his council and one of members elected by the people. In the third place, Canada is under a *representative* form of government, because the people choose from time to time a certain number of men to represent them in parliament and in the provincial legislatures. In the fourth place, Canada is under a *federal* form of government because the Dominion consists of a number of provinces federated or united by compact or agreement with certain powers of government vested in each of the provinces and certain powers vested in the federal or central government. And lastly, Canada is under a *responsible* form of government, that is to say, the ministers who form what is called the government are responsible in the first place to the House of Commons, the members of which are elected by the people, who can turn the government out of office if they are dissatisfied with it and secondly to the people, who if they are dissatisfied with the government can at a general election which must be held every few years elect members who will refuse to support the ministers forming the government and will so turn them out of office. It is not of course likely that all persons will agree in such matters and therefore all such questions are decided by majorities. If most of the selected members support the government it will be sustained,

and so again those candidates who receive most votes at the elections become the members. Nor are these the only forms of government. There is also the *municipal* government which has jurisdiction over a number of questions, affecting the comfort, convenience and security of the inhabitants of cities, towns, villages and other municipal divisions. And then too, there are the school boards which are charged with the supervision and management of the education of the children and boards of health that enforce the sanitary laws and many other subordinate bodies each charged with certain duties and powers. Accordingly from the supreme government in England, which manages the great affairs of a mighty empire, down to the little village council, which looks after the petty affairs of a small community, we see how many bodies it takes to make up the machinery which governs Canada.

3.—Law of the Land.

The principal duty of every government is to execute or carry out *The law of the land*. In its general sense the law is a collection of rules and orders, imposed by some established and recognized authority for the government of persons living in a political society or community. The fact that there is a government or power behind this law to enforce it, and a public opinion that demands its enforcement is what really gives the law strength. The law which regulates the system of federal union is known as the British North America Act, a statute passed in 1867 by the supreme power of the empire, the parliament of Great Britain and Ireland. In addition there are numerous rules, usages, and customs, which have the force of law though not contained in any

statute, and many other details of parliamentary and responsible government; which regulate the formation or resignation of a ministry, and such as those as the writer will explain fully hereafter (see *Third Part*, c. I, sec. 6). All the methods of government which have been briefly described above, monarchical, parliamentary, representative, federal, and responsible, are secured and regulated by this elaborate system of law and rules, which forms the *constitution* of the Dominion—in other words, a body of principles *constituted* or established by the proper authorities. Then there is the statutory law of the land, made up of the numerous statutes or acts* of the various legislative bodies on the many subjects under their respective control. Then there is that vast body of rules and usages and judicial decisions which have come to us from England and comprise the common law of the country, and in the Province of Quebec there is the law brought from France (see *Fourth Part*). The system of law which we possess is consequently very complex in its origin and is the result of the experiences of many centuries. Both England and France have contributed the foundations of our system, and we have built on that foundation a large body of rules admirably adapted to the conditions of our country.

4.—Executive, Legislative, and Judicial Powers.

The powers of government are divided into what are known as the *executive*, *legislative*, and *judicial* departments. The *executive* power carries out and administers

* Statute comes from the Latin word *statutus*, meaning ordered, established, 'set up.

or executes the law of the land. From the governor-general and the ministers of the crown who form his government, the lieutenant-governors and the members of the provincial governments, down to the humble constable executing a writ or order of a court, there is a large body of public officers engaged every day in administering or executing the law of the land. The *legislative* power makes the law. The Imperial Parliament of the United Kingdom, the supreme legislative body, the Parliament of Canada and the Legislatures of the several Provinces (see *below* p. 60). The *judicial* power is vested in the judges, who administer justice, apply and interpret the law, and in certain cases prescribe punishment for those who disobey it.

5.—Administration.

Another word which is sometimes used for the *executive* is the *administration*. The body of men who carry on the government is often called the “administration,” since it is their duty to see that the duties of their respective departments or branches of government are administered or carried out in accordance with law. For instance, it is the duty of the minister of customs, and the collectors at every port of Canada, to administer the law passed by parliament for the regulation and collection of duties of customs on goods coming into Canada from other countries. It is the duty of the minister of public works, and of the engineers, architects and clerks under his control, to look after the construction, repairs and maintenance of public buildings, like post offices and custom houses, and otherwise administer the affairs of the department. It is the duty of the

commissioner of crown lands in a province to carry out the regulations for the sale of public lands and the licensing of "timber limits," and to administer all the functions devolving upon his department by law. And it is the duty of the warden, mayor or other head of a municipal council to see that the affairs of his municipality are administered in accordance with the law (see *Fifth Part*) governing municipal institutions.

6.—Parliament.

The name of that great legislative body which has performed so remarkable a part in the history of England, and gives a designation to the principal law-making body of Canada, is said by one of the highest authorities, Professor Freeman, to be simply a Norman French term which goes back to the time of William the Conqueror. The king is said in an old English record or chronicle to have had "very deep speech"—*parlement*—with his national, or common council (in Latin *commune concilium*). This deep speech, or *parlement*, in the end gave its name to the "assembly," which has, in the course of time, assumed the somewhat changed form of *parliament* (in low Latin *parliamentum*). The name of the House of Commons—that body in which political power now mainly rests—does not at all mean that the great mass of the people of England, "the commonalty," was ever represented in the early national assemblies. On the contrary, the word "commons" was restricted in meaning to the knights of shires or counties, and the burgesses or citizens of towns or boroughs, and cities, whose local bodies—called *communitates* in legal Latin documents, because their members had certain privileges in common—

elected the representatives in question. Gradually the term "commons" came, to mean those classes of the people who were not lords or peers summoned to the upper house, and who could be elected to the lower or commons house. Even the sons of the peers or lords of parliament are commoners—identified with the mass of people. In this way, there grew up two houses of parliament: one consisting of the classes or estates called "lords spiritual and temporal,"—peers, archbishops and bishops,—and the other, that estate which takes in the rest of the people and is now called the Commons of Great Britain and Ireland. In Canada there has never been such distinctions as "estates" or classes. The members of the legislative councils of the provinces, and of the senate of the Dominion, the upper houses of our parliament and legislatures differ from the lower only in being appointed for life by the governors, representing the king, instead of being elected for a term of four or five years by the people* and have no special class privileges. Under the laws that now prevail throughout Canada prescribing the qualification of voters, rich and poor, the employer and the employee, all can alike be represented in our legislative bodies and so have their various interests protected.

7.—Conclusion.

However brief and incomplete the foregoing explanations may be, it will be well for my reader to bear them

* Before confederation in 1867 the members of the legislative councils of the provinces of Canada and Prince Edward Island were elected.

The only provinces now having legislative councils are Quebec and Nova Scotia. In the other provinces the provincial legislatures consist of the sovereign represented by a lieutenant-governor and one elected house.

in mind and to refer to them whilst studying this short review of the government institutions of Canada. Other words and phrases that apply to the details of government will be more conveniently explained as each branch of the subject comes up.

8.—Powers of Government.

1. Executive.—The administering of the laws.
2. Legislative.—The making of the laws.
3. judicial.—The interpreting and applying the law and awarding punishment to those who break the laws.

CHAPTER II.

POLITICAL GROWTH OF CANADA.*

1. *The Dominion of Canada.*—2. *Plan of the Book.*—3. *Periods of Political Development.*

1.—The Dominion of Canada.

The Dominion of Canada forms one of the most important dependencies of the most remarkable empire known to the history of the world. It is properly called a dependency because its government, though complete within itself, is necessarily dependent on and subordinate to the supreme authority of Great Britain, whose king and parliament have jurisdiction over the whole empire. This Dominion comprises at the present time the provinces of Ontario, Quebec, Nova Scotia, New Brunswick, Manitoba, British Columbia, Prince Edward Island, Saskatchewan and Alberta, as well as a vast area of territory in the Northwest, forming the Northwest Territories and the Yukon Territory. These provinces and territories are closely connected by a political system called a *federal union*, to which, as a whole, has been given the name of a *Dominion* from the fact that it forms a part of the dominions or dependencies subject to the government of the king and parliament of England. It had, according to the Census of 1911, a population of

* The word *Canada* is a memorial of the time when the French discoverer, Jacques Cartier, found that the Indian inhabitants on the banks of the St. Lawrence called their country, as he thought, but really their villages, *Kannata*, or a collection of dwellings.

7,206,643, of which 2,523,274 live in the English province of Ontario, formerly known as Upper Canada; 2,003,232 in the French province of Quebec, formerly known as Lower Canada; 937,955 in the maritime provinces of Prince Edward Island, New Brunswick and Nova Scotia; 455,614 in the province of Manitoba; 392,480 in the province of British Columbia; 492,432 in the province of Saskatchewan; 374,663 in the province of Alberta; 8,512 in the Yukon Territory; and 18,481 in the Northwest Territories. In the province of Quebec there is a French population of 1,605,339. In the maritime provinces there is a French population of 163,474 souls; in Ontario, of 202,442; and in the Northwest and British Columbia, of 82,927. Of the remainder, 3,896,985 are of British and Irish origin. Of the whole population of Canada, 2,833,041 souls are Roman Catholics, of whom 1,724,683 live in the province of Quebec. Over four millions are Protestants.

2.—Plan of this Book.

I propose to show the nature of the government of this federal union of provinces. My object is to give such a concise and impartial account of the nature and working of the executive, legislative and judicial machinery of government as will be easily understood by the whole community, old and young, men and women, and at the same time show them all that the institutions of Canada are calculated to render the people, irrespective of race or religion, happy and prosperous as long as those institutions are conducted honestly and wisely by those who have been chosen by the people for the management of public affairs.

3.—Periods of Political Development.

It is necessary that I should at the outset briefly trace the most important steps in the political development of the several provinces comprised in the present Dominion, so that every one may the more clearly understand the origin and nature of the system of government which Canadians now possess.

I shall first refer to the political history of the large country known as the Province of Canada until 1867, and now divided into the two provinces of Quebec and Ontario. There were four complete Periods in the political history of the province of Canada :

1. The Period of French rule, from 1608 to 1759-60, or the Period of absolute government.
2. The Period from 1760 to 1791, when representative and legislative institutions were being introduced.
3. The Period from 1791 to 1840, when representative institutions were developing into responsible or complete self-government.
4. The Period from 1840 to 1867, during which responsible government was established in the fullest sense of the phrase.

In 1867 Canada entered on the Fifth Period of her political history as a federation. The nature of this government will be explained in the chapters following the historical review.

CHAPTER III.

HISTORICAL OUTLINE.

1. *French rule, 1608—1760.*—2. *English rule, 1760—1791.*

1.—French Rule, 1608—1759-60.

The country watered by the St. Lawrence and the Great Lakes, and now divided into the provinces of Quebec and Ontario, and known as Upper and Lower Canada before Confederation, became the colonial possession of France by the right of first discovery and settlement. Jacques Cartier, a bold sailor of St. Malo, in France, landed at Gaspé in 1534 and sailed up the St. Lawrence in 1535, or more than forty years after the discovery of America by Columbus. It was not until 1608, however, that Samuel Champlain, of Brouage, on the Bay of Biscay, commenced the building of a town amid the rocks of ancient Stadaconé—the name of a

Champlain—

famous Indian hamlet of the days of Cartier—and actually laid the foundations of the colony which has developed into the province of Quebec.

Canada was for some years under the control of commercial companies to whom the king of France gave exclusive rights over the fur trade. By 1664, however, the rule of the commercial companies came to an end

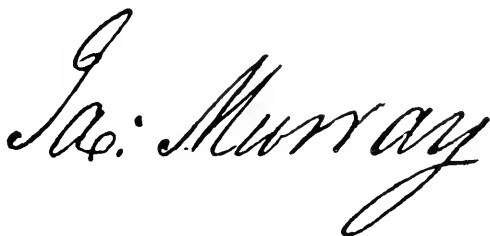
and the king established a regular government. In Canada the governor had only such powers as were expressly given him by the king, who, jealous of all authority in others, kept him strictly subordinate to himself. The governor had command of the militia and troops. The *intendant* was an official, almost equal to the governor in rank, and of larger authority in the colony, since he managed its financial affairs, and acted also as judge and legislator. A council, exercising legislative and judicial powers, assisted the governor and intendant, and acted as a colonial court of appeal in civil and criminal cases—the king himself in council being the supreme court of last resort. Justice was administered in cases of property and the rights of individuals in accordance with the custom of Paris,* which is still one of the foundations of the Quebec law. (See *Fourth Part*.) The bishop was a member of the council, and the Roman Catholic Church was the official and only religion recognized and was established by the decrees and ordinances of the government. The parish became a district for local as well as church purposes. Tithes or regular charges for the support of clergy and church were imposed and regulated by the ordinances made by the government. All education was under the control of the church and its numerous religious bodies. An effort was made to establish a class of nobles by the granting of large tracts of land to lords (*seigneurs*) who granted them to cultivators of the soil (*habitans*) subject to certain payments and other

* Before Napoleon had the code prepared which bears his name, different parts of France had different laws, which were called "customs." The particular custom selected for Canada was the one in force in Paris.

conditions. The king and council of state kept a strict supervision over the government of the colony, and we look in vain for evidence of popular freedom in those days. Canada was never allowed representative government. Public meetings of all kinds were steadily repressed. No system of municipal government was established, and the government was in every respect autocratic.

2.—English Rule in Canada, 1760—1791.

From the surrender of Quebec and Montreal in 1759-1760 to the English military forces dates the commencement of a new era of political liberty in the history of French Canada. Canada formally became a possession of England by the Treaty of Paris, of 1763, under which the French Canadians were granted the free exercise of their religion. From 1760 to 1763 there was a military

A large, elegant handwritten signature in cursive script, reading "J. Murray". The letters are fluid and connected, with a prominent flourish at the end of the word "Murray".

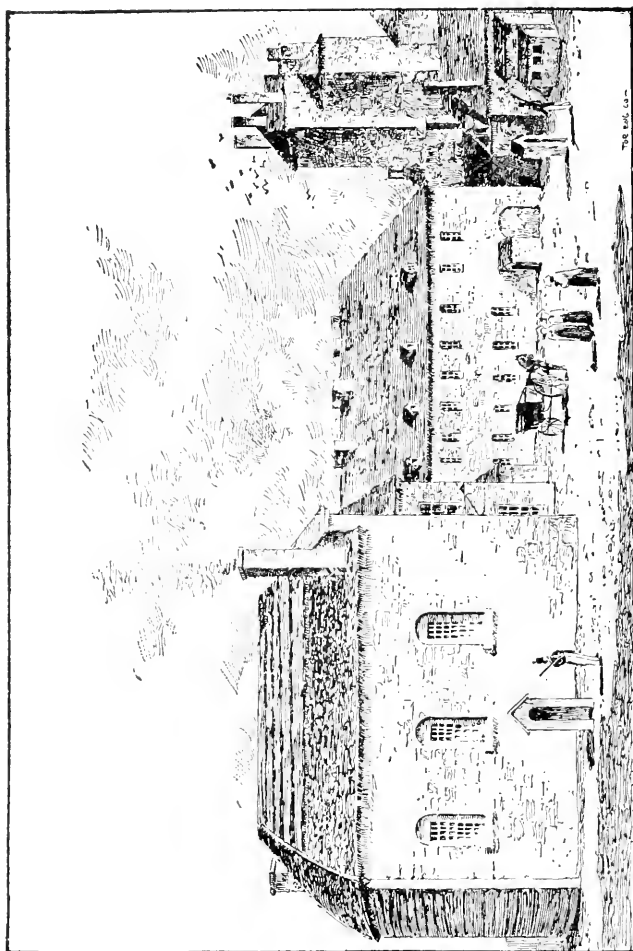
government as a necessary result of the unsettled condition of things in a country that had suffered so much from war. In 1763 King George III. issued a royal proclamation* which established the first system of English government in the new possession of England.

* A royal proclamation is the official document by which the king, or a governor in the name of the king, gives a formal notice to the people.

The governor was authorized to grant the people the right to elect representatives to an assembly, but the time was not yet ripe for so large a measure of public liberty, if indeed it had been possible under the instructions to Governor-General Murray, which required the members to take the oath of supremacy and make the declaration against transubstantiation, which, of course, no Roman Catholic could do. The government of the province was carried on for ten years by a governor-general, aided by an executive or advising council, composed of a few English officials and inhabitants, and only one French Canadian. The ordinances* or laws, passed by the governor and council, created much discontent among the French Canadians, since they set aside the French legal system to which they had been always accustomed, and established the common law of England. In 1774 the parliament of England passed the Quebec Act, which gave a new constitution to the province. The government was entrusted to a governor and legislative council appointed by the king, and the scheme of an elected assembly was postponed as "inexpedient," under the then existing conditions. The French Canadians were not yet prepared for representative institutions of whose working they never had any practical knowledge, and were quite content for the time being with a system which brought some of their leading

* Ordinance is an old French word, which itself comes from the Latin *ordinare*, to order or regulate, and is generally applied in Canadian constitutional history to a legal order of the governor and council—a legislative body of only one house—common to all the colonies before the concession of a complete system of representative government. The acts passed by the commissioner and council of the Yukon are, for instance, called ordinances (see *Seventh Part*).

men into the legislative council. But what made the act popular in French Canada was the fact that it placed the French Canadians and the Roman Catholic population on the same footing as English Canadians and Protestants, confirmed their right to full freedom of worship, allowed the church as a body to retain their valuable property, and restored the French civil law with respect to property and individual rights. The criminal law of England was, however, to prevail throughout the province. In the legislative council both English and French were used, and the ordinances were to be drawn up in both languages. The governor-general was to be assisted in the work of government by an advisory body of five persons—chiefly members of the legislative council—who were to be chosen by himself and called a privy council, in imitation of the council that has so long advised the English kings. (See *Second Part*, c. 1, sec. 3.)



OLD BISHOP'S PALACE, QUEBEC, WHERE FIRST PARLIAMENT OF LOWER CANADA MET IN 1792.

CHAPTER IV.

HISTORICAL OUTLINE—*Continued.*

3. *Immigration of United Empire Loyalists.*—4. *Representative Institutions in Upper and Lower Canada, 1792-1840.*—
5. *Period of Responsible Government, 1840-1867.*
-

3.—Immigration of the U. E. Loyalists.

While the Quebec Act continued in force, there was a very important immigration into British North America of some forty thousand persons known as United Empire Loyalists—that is to say, men loyal to British connection—who decided to leave the old English Thirteen Colonies (now a portion of the United States), when they declared themselves independent of England. These men laid the foundations of the provinces now known as New Brunswick and Ontario, settled a considerable portion of Nova Scotia, and exercised a large influence in the development of representative institutions in their new homes.

4.—Representative Institutions in Upper and Lower Canada, 1792—1840.

The Quebec Act lasted from 1774 to 1791. By this time there was a rapidly increasing English population in the western parts of the country, and difficulties were constantly arising between the English and the French Canadians. The British government considered it the wisest policy to form two separate provinces, in which

the two races could each work out its own future separately.

By the "Constitutional Act," passed by the imperial parliament in 1791, the people were for the first time given an assembly to be elected by themselves. The act provided for a governor-general in Lower Canada and a lieutenant-governor in Upper Canada, both appointed by the sovereign. In each province there was an executive or advisory body, chosen by the governor of the province; a legislative council chosen in the same way, and an assembly elected by the people on a restricted franchise. Members of both houses had to hold property to a fixed amount or lose their seats.



FIRST PARLIAMENT BUILDINGS, TORONTO, 1796—1813

The great object of the act was to give to both Upper and Lower Canada constitutions resembling that of England as far as the circumstances of the country would permit. After an experience of some years, however, it was clear that the constitution of 1791, though giving many privileges, had one source of weakness since it professed to be an imitation of the English system, but failed in that all-important principle which the experience of England has proved to be necessary; that is to say,

the principle which requires the advisers or ministers—in other words the government of the sovereign in England, and of a governor-general or lieutenant-governor in Canada—to be chosen from the political body that has the support of a majority of the people's representatives in the elected assembly, and to be responsible to the assembly, for the work of administration and legislation. The English Canadians in Upper Canada pressed for the adoption of this principle, but the French Canadian popular leaders sought to acquire control by getting the legislative council made elective, the council being generally in conflict with the elected assembly, as there was a "war of races" in Lower Canada, where the French and elected element predominated in the assembly, and the English and official or ruling element in the legislative council. The executive government and legislative council, both nominated by the crown, were virtually the same body in those days. The ruling spirits in the one were the ruling spirits in the other. In this contest of race, religion and politics, the passions of men became bitterly inflamed, and an impartial historian must deprecate the mistakes and faults that were committed on both sides. But looking at the record from a purely constitutional point, it must be admitted that the majority in the assembly were right in contending for the control of the public expenditures in accordance with the principles of English parliamentary government. The voting of money is essentially the privilege of a people's house, though no measure can become law without the consent of the upper house, which may reject, but cannot change, a taxation or money bill. Another grievance was the sitting of judges in both houses. It

was not until the assembly deluged the imperial parliament with addresses on the subject, that this grievous defect disappeared from the political system.

In Upper Canada the political difficulties never assumed so serious an aspect as in the French Canadian section. No difference of race could arise in the western province, and the question of money and expenditure gradually arranged itself more satisfactorily than in Lower Canada, but nevertheless the people at large had their grievances. An official class, called sarcastically "a family compact," held within its control the government of the province. The "clergy reserves question," which grew out of the grant to the Protestant Church of Canada of large tracts of land under the Constitutional Act of 1791, was long a burning question in the contest of parties. The Church of England and the Church of Scotland alone derived advantages from this valuable source of revenue to the intense dissatisfaction of the other Protestant bodies.

In those times of popular agitation, great danger arose from the hostility of the two races in the political field as well as in their social and public relations. At last, the political difficulties in French Canada ended in the rebellion of 1837-38, led by Louis Joseph Papineau, and Wolfred Nelson, the leaders of the popular party. This insurrection never extended over any large section of the French province, but was very soon repressed by the vigorous measures taken by the civil and military authorities. In Upper Canada, the popular leader, William Lyon Mackenzie, attempted to excite a rising of the people against the government, but it never made any headway, and he was obliged to find refuge

in the United States. The result was the suspension of the representative constitution given to Lower Canada by the act of 1791, and the government of the province from 1838 to 1840 by a governor-general and a special council appointed by himself. The most important event at this time, on account of its influence on later constitutional changes, was the mission of Lord Durham, a



distinguished English statesman, who was authorized by the imperial government to inquire into the state of the country. He was appointed governor-general and high commissioner and was given very large powers. Few state papers in English history have had greater influence on the political development of the colonies than the report which was the result of his judicious survey of the political condition of all the provinces of British North America. On no point did he dwell more strongly than on the necessity that existed for entrusting the government to the hands of those in whom the representative body, or people's house, had confidence. The final issue of the inquiries made by the imperial government into the affairs of the country was the passage of another act by the English parliament providing for a very important constitutional change in Canada.

5.—Period of Responsible Government in Canada, 1840—1867.

The act of 1840, which reunited the provinces of Upper and Lower Canada under one government, was

the commencement of that Fourth Period of political development which lasted until 1867. The French Canadians looked upon the act at first with much suspicion. The fact that the French language was no longer placed on the same footing as English, in official documents and parliamentary proceedings, together with the fact that Upper Canada had the same representation as Lower Canada in the assembly, despite the larger population of the latter section at the time of union, was considered an injustice to the French Canadians, against which they did not fail to remonstrate for years. But so far from the act of 1840, which united the Canadas, acting unfavourably to the French Canadian people, it eventually gave them a predominance in the councils of the country and prepared the way for the larger constitution of 1867 which has handed over to them the control of their own province. French soon became an official language by an amendment of the union act, and the clause providing for equality of representation proved an advantage to French Canada when the upper province exceeded in population the French Canadian section. The act of 1840 was framed on the principle of giving larger political privileges to the Canadians and was accompanied by instructions to the governor-general, Mr. Poulett Thomson, afterwards Lord Sydenham, which laid the foundation of responsible government. It took several years to give full effect to the leading principles of parliamentary government, and it was not until the arrival in 1847 of Lord Elgin, one of the ablest governors-general Canada has ever had, that the people enjoyed in its completeness that system of the responsibility of the cabinet to parliament without which our constitution

would be unworkable. The Canadian legislature was given full control of taxation, supply and expenditure in accordance with English constitutional principles. The clergy reserves difficulty was settled and the lands sold for public or municipal purposes, the interest of existing rector and incumbents being guarded. The great land question of Canada, the seigniorial tenure of Lower Canada, was disposed of by buying out the claims of the seigniors, and the people of Lower Canada were freed from exactions which had become not so much onerous as vexatious, and were placed on the same free footing as other settlers in the English communities of America. Municipal institutions of a liberal nature, especially in what is now the province of Ontario, were established and the people of the two provinces were given that control over their local affairs in the counties, townships, cities and parishes, which is so desirable. The civil service,* which necessarily plays so important a part in the administration of government, was placed on a permanent basis.

The legislative union did its work until the political conditions of Canada again demanded another radical change in keeping with the material and political development of the country, and capable of removing the difficulties that had arisen in the operation of the act of 1840. The claims of Upper Canada to larger representation—equal to its population increased by the great immigration which naturally sought a rich and fertile

*The civil service is composed of the officers, clerks, and other employees of a government, and is termed "civil" because their work is connected with the civil work of the government as distinguished from the military or naval services.

province—were steadily resisted by the French Canadians as an undue interference with the security guaranteed to them under the act. This resistance gave rise to great irritation in Upper Canada where a powerful party made representation by population their platform, a stable government at last became practically impossible on account of the opposing parties in the Assembly being so nearly equal in numbers. The time had come for the accomplishment of the great change foreshadowed by Lord Durham, Chief Justice Sewell of Quebec, Mr. Howe of Nova Scotia, Sir Alexander Galt of Canada, and other public men: *the union of the provinces of British North America*.

But before I proceed to refer to the results of the convention of British American Statesmen that met at Quebec in 1864, and framed a system of federal union, it is necessary that I should refer to the progress of popular government in the maritime provinces, so that this historical sketch may be made complete up to 1867.

Province of Canada.

1680—1760. French Rule :

First of all by a Governor, subject only to orders of Kings of France.

After 1663 by a Governor and Intendant and a Council consisting of Governor, Intendant and Bishop with five, then seven, and eventually twelve councillors.

1760—1763. English Military Rule :

By the officers commanding the troops.

1763—1774 (Under the Royal Proclamation of 1763) :

By a Governor-General and a Council appointed by the Crown.

1774—1791 (Under the Quebec Act):

By a Governor-General and a Legislative Council appointed by the Crown.

1791—1838 (Under the Constitution Act):

The Province divided into Upper and Lower Canada with a Governor-General at Quebec and a Lieutenant-Governor in Upper Canada, and in each an Executive Council and a Legislative Council appointed by the Governor, and a House of Assembly elected by the people.

1838—1840:

Government by Governor-General and Council in consequence of the rebellion of 1837.

1840—1867 (Under the Union Act, 1840):

The two Canada's joined again as the Province of Canada and responsible government introduced, government being by a Governor-General, an Executive Council responsible to the Assembly, a Legislative Council, first appointed by the Governor upon the advice of the Executive Council and in 1856 made elective, the members previously appointed for life continuing to hold their seats, and by a House of Assembly elected by the people.

1867—Confederation (under the British North America Act, 1867):

The Province was divided into two and became part of the Dominion of Canada under the names of the Province of Ontario and the Province of Quebec, their respective boundaries being similar to those of the old Provinces of Upper and Lower Canada, the government consisting of:

(1) The Federal Government—

A Governor-General appointed by the Sovereign, a Cabinet responsible to the House of Commons, a Senate appointed by the Governor-General on the advice of the Cabinet, and a House of Commons elected by the people.

(2) The Provincial Governments—

A Lieutenant-Governor, appointed by the Governor-General on the advice of his Cabinet, an Executive Council responsible to the House of Assembly, and a House of Assembly elected by the people. Quebec and Nova Scotia also have Legislative Councils consisting of members appointed for life by the Lieutenant-Governor on the advice of the Executive Council. Manitoba in 1876, New Brunswick in 1891, and Prince Edward Island in 1893, abolished the Legislative Councils which they had had previous to those dates.

CHAPTER V.

HISTORICAL OUTLINE—*Concluded.*

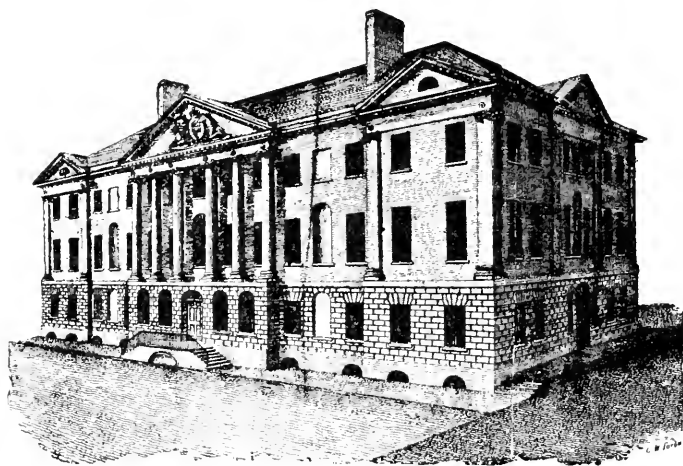
6.—*Maritime Provinces: Nova Scotia, New Brunswick, P. E. Island, and Cape Breton, 1714-1867.*—7. *Newfoundland.*

6.—**Maritime Provinces, 1714—1867.**

Nova Scotia, New Brunswick, and Prince Edward Island were formerly portions of the French domain in America. John Cabot, a Venetian in the employ of Henry VII. of England, appears to have discovered Cape Breton and Nova Scotia in 1497 and 1498, but the French were the first to make a settlement in 1605 on the banks of the Annapolis Basin. Nova Scotia, New Brunswick and a considerable part of Maine were in the days of French rule known as Acadie,* an Indian name. The present maritime provinces became the possession of England by the treaties of Utrecht (1713) and of Paris (1763). None of these provinces were given constitutions by the parliament of Great Britain, as was the case with old Canada; but they enjoyed as complete a system of self-government as that large province. Their constitutions must be sought for in the commissions of the lieutenant-governors, despatches of the colonial secretary of state, imperial statutes, and various official documents, which built up in the course of time a legislative system and responsible government.

* *Akăde* means a place, and was always used in connection with another Indian word showing some feature of the locality. Thus *Anagwākāde* is White Place or Point.

In Nova Scotia, from 1713 to 1758, the provincial government consisted of a governor or lieutenant-governor and a council possessing both legislative and executive powers. A legislative assembly sat for the first time at Halifax on the 2nd October, 1758, or thirty-four years before representative assemblies met at Newark (now Niagara), the capital of Upper Canada for several years, and at Quebec, the capital of Lower Canada.



NOVA SCOTIA PROVINCE BUILDING.

New Brunswick, founded by Loyalists, was separated from Nova Scotia, and created a distinct province in 1784. Its first government consisted of a lieutenant-governor, and a council having both legislature and executive functions, and an assembly elected by the people.

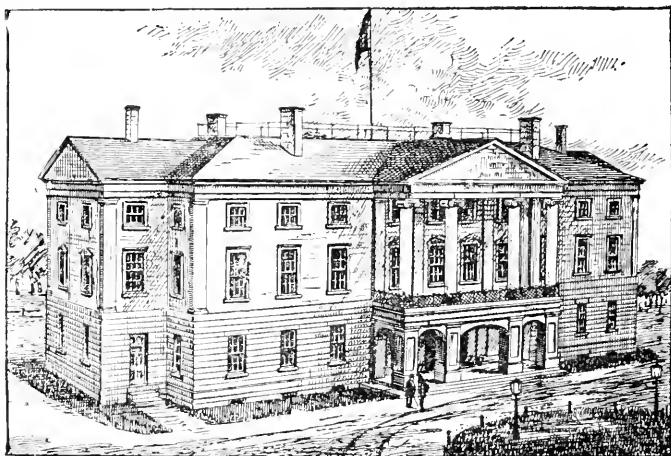
At the time of the outbreaks in Upper and Lower Canada, 1837-8, there was still a considerable amount o

dissatisfaction in the maritime provinces, arising from the existence in each province of an irresponsible council exercising executive, legislative and even judicial powers, the constant interference of the imperial government in purely local matters, and the abuse of the powers of the representative and executive bodies ; but if there was in those sections less serious discontent and less obstruction to the regular course of government, it was because there was a nearer approach to sound constitutional practice. In New Brunswick especially, the political controversies that had been extremely bitter between the executive and legislative authorities were, to a great extent, ended by the grant of the control of all the revenues to the assembly. Before 1840 the legislative councils in the two provinces were no longer allowed to exercise both executive and judicial functions. By 1848 responsible government was fully established.

The island of Cape Breton, known also as *Isle Royale* in French Canadian history, was not ceded to England until 1763. It was under the government of Nova Scotia from 1763 to 1784 when it was given a separate government consisting of a lieutenant-governor and council having very limited legislative as well as executive functions. This constitution remained in force until the reannexation of the island in 1820 to Nova Scotia of which it still forms a part.

The island of Prince Edward, formerly known as St. John, formed a part of Nova Scotia until 1769, when it was created a separate province, with a government consisting of a lieutenant-governor and a combined executive and legislative council. In 1773 an assembly was elected. Some of the early lieutenant-governors

were for years in constant conflict with the assembly, and during one administration the island was practically without representative government for ten years. The political situation was made much worse by the fatal mistake committed at the very commencement of its history, of granting all the public lands—in

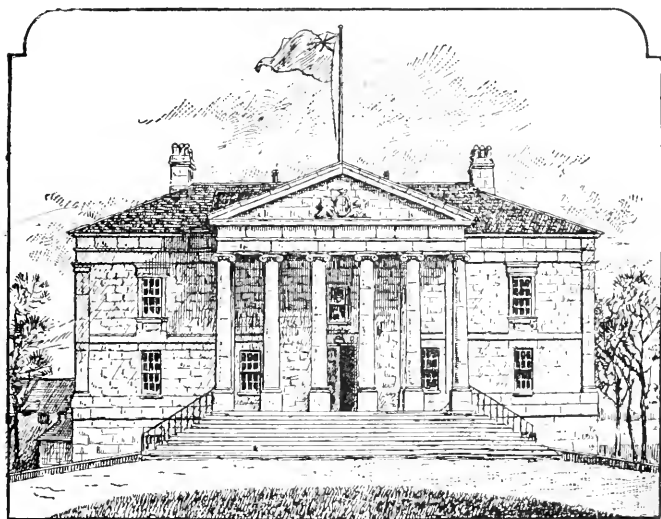


PRINCE EDWARD ISLAND PROVINCE BUILDING.

fact the whole island—to a few absentee proprietors, and it was not until the admission of the province into the confederation that this burning question was satisfactorily settled by the purchase of the claims of the landlords. Responsible government was not actually established until 1850-51, when the assembly obtained full control, like the other provinces, of its public revenues, and was allowed to manage its local affairs.

7.—Newfoundland.

The great island of Newfoundland, which stands at the very gateway of the Dominion of Canada, was claimed as a possession of England by virtue of the discoveries of John Cabot in 1497, and of Sir Humphrey Gilbert in 1583—the latter having received permission



LEGISLATIVE BUILDING OF NEWFOUNDLAND.

to assert English jurisdiction over the island. For very many years the island was only a resort for the fishermen of all nations and the scene of conflicts between France and England. In 1713 the island was finally ceded to England, and English fishermen commenced to form settlements around its shores. Until 1832 the system of government was most arbitrary, and a few wealthy merchants in England and their agents in the

colony practically controlled affairs. In that year representative institutions were given to the people. The government consisted of a lieutenant-governor assisted by an appointed council, with both legislative and executive functions, and an elected assembly. In 1854 responsible government was conceded. The government is in the hands of a lieutenant-governor appointed by the king ; of an executive or advisory council of nine ministers ; of a legislative council of fifteen members, appointed by the governor on the advice of the executive council ; of an assembly of thirty-six members, elected by ballot every four years, there being manhood suffrage.* France, by virtue of the Treaty of Utrecht (1713), of Paris (1763), of Versailles (1783), and of Paris again (1815), enjoyed certain fishery rights on a wide extent of the western and northeasterly coast, which prevented immigration and created difficulties, but by the Anglo-French convention of 1904 France renounced these rights, retaining only the right to fish and obtain bait in the territorial waters of Newfoundland on the coast between Cape St. John and Cape Ray passing by the north, Great Britain compensating France by concessions of territory in Africa.

Nova Scotia.

1713—1758. A Governor and Council.

1758. A Governor, an appointed Council with executive and legislative powers, and an Assembly elected by the people.

1838. Executive and legislative powers separated and two Councils formed.

1848. Responsible government. Executive Council became responsible to the House of Assembly.

* That is, every man having a vote.

1867. Confederation. The Province became part of the Dominion of Canada with representation in the Senate and House of Commons and a Provincial government consisting of a Lieutenant-Governor appointed by the Governor-General of Canada on the advice of his Cabinet, an Executive Council responsible to the House of Assembly, a Legislative Council consisting of members appointed for life by the Lieutenant-Governor on the advice of the Executive Council, and an elected House of Assembly.

New Brunswick.

1784. New Brunswick made a separate province with the same constitution as Nova Scotia.

1832. Same division of Council as occurred in 1838 in Nova Scotia.

1848. Responsible government.

1867. Confederation. The Province became part of the Dominion of Canada with the same government as Nova Scotia.

Prince Edward Island.

1769. Detached from Nova Scotia.
Lieutenant-Governor and an appointed Council.

1773. An Assembly elected by the people added.

1850--51. Responsible Government.

1862. Legislative Council made elective.

1873. Confederation. The Province became part of the Dominion of Canada, being given the same constitution as Nova Scotia.

1893. Legislative Council abolished.

CHAPTER VI.

FEDERAL UNION.

1. *Summary of Political Rights.*—2. *Federal Union, 1867.*—3. *Admission of British Columbia.*—4. *Acquisition of the Northwest Territories.*—5. *Three leading principles of Federal Union.*—6. *How Canada is Governed; Division of Authorities of Government.*
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1.—Summary of Political Rights, 1867.

As the previous pages show, when it was decided in 1864 to have a meeting of representatives of the British North American provinces to consider the feasibility of a union, all these countries were in possession of a complete system of local self-government, consisting of a governor-general in Canada, and a lieutenant-governor in each of the other provinces; of an executive or advisory council, appointed by the governor-general or lieutenant-governor, and dependent on the support of the majority in the elected assembly; of a legislative council, appointed by the governor, with the advice of his council, in Nova Scotia and New Brunswick, but elective in Canada and Prince Edward Island; and of an assembly, elected by the people.

As we look back over the century that had passed between the Treaty of Paris, which ceded Canada to England in 1763, and the Quebec convention of 1864, we can see that the struggles of the statesmen and people of British North America had won from England for all the provinces the concession of the following

principles, which lie at the foundation of our whole political structure :

1. The establishment at an early period of Canadian history, of the principle of religious toleration and equality of all religious denominations.
2. The guarantees given to the French Canadians for the preservation of their religion, law and language.
3. The adoption of the English criminal law in the French as well as the English provinces.
4. The establishment of representative institutions in every province.
5. The independence of the judiciary and its complete isolation from political influences and conflicts.
6. Complete provincial control over all local revenues and expenditures through the elected assembly.
7. The right of the legislatures to manage their purely local affairs without imperial interference.
8. The establishment of municipal institutions, and the consequent increase of public spirit in all parts of the old provinces of Upper and Lower Canada.
9. The adoption of the English principle of responsibility to the legislative assembly, under which a ministry or executive council can only hold office while its members have seats in the legislature and possess the confidence of a majority of the people's elected representatives.

2.—Federal Union, 1867.

Having had many years' experience of local self-government, having shown their ability to govern themselves, having recognized the necessity for a union which would give them greater strength within the Empire, and afford larger facilities for commercial relations between each other, and with the rest of the world, the governments of the several provinces, whose constitutional history we have briefly reviewed, united with the leaders of the opposition in the different legislative bodies, with the object of carrying out this great measure. A convention of thirty-three representative men was held in the autumn of 1864 in the historic city of Quebec, and after a deliberation of several weeks the result was the unanimous adoption of seventy-two resolutions embodying the terms on which the provinces through their delegates agreed to a federal union. These resolutions had to be laid before the various legislatures and adopted in the shape of addresses to the Queen, so that the wishes of the provinces might be embodied in an imperial statute.

In the earlier part of 1867 the imperial parliament passed the statute known as the "British North America Act, 1867," which united in the first instance the province of Canada, (divided by the Act into the provinces of Ontario and Quebec) with Nova Scotia and New Brunswick, and made provision for the coming in of the other provinces of Prince Edward Island, Newfoundland, and British Columbia, and the admission of Rupert's Land and the great Northwest.

Canada: *

<i>E. Taché</i>	<i>A. H. Chapais</i>
<i>Wm. Macdonald</i>	<i>Thos. Darcy McGee</i>
<i>Geo. M. Cartier</i>	<i>Hector Langevin</i>
<i>G. W. Brown</i>	<i>Wm. McDougall</i>
<i>A. Galt</i>	<i>James Cockburn</i>
<i>A. Campbell</i>	<i>Oliver Mowat</i>

Nova Scotia.

<i>Charles Tupper</i>	<i>Adams G. Archibald</i>
<i>W. A. Henry</i>	<i>R. B. Dickey</i>
<i>J. McCully</i>	

* The delegates to the Quebec conference, whose autographs I give above, held the following positions in their respective provinces:—

Canada: Hon. Sir Etienne P. Taché, M.L.C., premier; Hon. John A. Macdonald, M.P.P., attorney-general of Upper Canada; Hon. George Etienne Cartier, M.P.P., attorney-general of Lower Canada; Hon. George Brown, M.P.P., president of the executive council; Hon. Alexander T. Galt, M.P.P., finance minister; Hon. Alexander Campbell, M.L.C., commissioner of crown lands; Hon. Jean C. Chapais, M.L.C., commissioner of public works; Hon. Thomas D'Arcy McGee, M.P.P., minister of agriculture; Hon. Hector L. Langevin, M.P.P., solicitor-general for Lower Canada; Hon. William McDougall, M.P.P., provincial secretary; Hon. James Cockburn, M.P.P., solicitor-general for Upper Canada; Hon. Oliver Mowat, M.P.P., postmaster-general.

Nova Scotia: Hon. Charles Tupper, M.P.P., provincial secretary and premier; Hon. William A. Henry, M.P.P., attorney-general; Hon. Robert B. Dickey, M.L.C.; Hon. Adams G. Archibald, M.P.P.; Hon. Jonathan McCully, M.L.C.

New Brunswick.

<i>H. Frey</i>	<i>J. Hamilton Gray</i>
<i>P. Mitchell</i>	<i>E. W. Chandler</i>
<i>Charles Fisher</i>	<i>J. M. Johnson</i>
<i>W. H. Steeves</i>	

Prince Edward Island

<i>John Gray</i>	<i>A. Macdonald</i>
<i>George Coles</i>	<i>Edmund Whelan</i>
<i>J. Heath Haviland</i>	<i>W. H. Pope</i>
<i>Edw. Palmer</i>	

Newfoundland.

<i>A. Shea</i>	<i>F. B. T. Carter</i>
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New Brunswick: Hon. Samuel L. Tilley, M.P.P., provincial secretary and premier; Hon. Peter Mitchell, M.L.C.; Hon. Charles Fisher, M.P.P.; Hon. William H. Steeves, M.L.C.; Hon. John Hamilton Gray, M.P.P.; Hon. Edward B. Chandler, M.L.C.; Hon. John M. Johnson, M.P.P., attorney-general.

Prince Edward Island: Hon. John Hamilton Gray, M.P.P., premier; Hon. George Coles, M.P.P.; Hon. Thomas Heath Haviland, M.P.P.; Hon. Edward Palmer, M.P.P., attorney-general; Hon. Andrew Archibald Macdonald, M.L.C.; Hon. Edward Whelan, M.L.C.; Hon. William H. Pope, M.P.P., provincial secretary.

Newfoundland: Hon. Frederick B. T. Carter, M.P.P., speaker of the house of assembly; Hon. Ambrose Shea, M.P.P.

Newfoundland has always refused to join the union. Prince Edward Island joined in 1873.

3.—Admission of British Columbia.

British Columbia, which took no part in the convention, came into confederation in 1871. For many years the mainland was separate from Vancouver Island. That island was held in 1843 by the fur-trading corporation, known as the Hudson's Bay Company, and made a crown colony in 1849. A crown colony has no representative institutions and the whole power rests in a governor and appointed officials. The real authority continued in the hands of the Hudson's Bay Company for some years later. In 1856 an assembly was established with seven members, despite the very small population of the island. The island was united with British Columbia in 1866, and the latter name given to the united colonies. The mainland, known previously to 1866 as New Caledonia and British Columbia, had long been a domain of the Hudson's Bay Company, and it was not until 1858 that it became a crown colony. In 1863 a legislative council was first granted by the crown and was partly appointed by the governor, and partly elected by the people. By the act of 1866, uniting the island of Vancouver to the government of British Columbia, the authority of the executive government and legislature of the latter colony was extended over both colonies. Until 1871, when the province of British Columbia entered the federal union of Canada, it was governed by a lieutenant-governor, appointed by the sovereign, and a legislative council, composed of heads of public departments and

several elected members. Responsible government was not introduced into the province until after 1871.

4.—Acquisition of the Northwest and Formation of Manitoba.

Previous to the union of 1867 the vast country known as Rupert's Land and the Northwest Territories belonged to and was under the control of the Hudson's Bay Company, or to give the company its full name, "The Governor and Company of Adventurers of England trading into Hudson Bay," which held exclusive trading rights given it by Charles II. His cousin the famous Prince Rupert being the first governor of the company. It was not until 1869 that the rights of the company were purchased and the region transferred to the government of the Dominion of Canada. In 1870 a new province was formed under the name of Manitoba and invested with all the powers of self-government possessed by the older provinces. Subsequently the Northwest Territories were given a government consisting of a Lieutenant-Governor and an appointed council, and afterwards of an elected house in substitution for the appointed council. To a limited extent responsible government had been developed in the local government when in 1905 the two new provinces of Saskatchewan and Alberta were carved out of the Territories. In 1881 the Province of Manitoba was enlarged, and in 1912 large portions of the Territories were added to the provinces of Ontario, Quebec and Manitoba.

5.—Three Leading Principles of Federal Union.

I have given a brief historical sketch of the constitutional development of the countries that compose the

federal union of Canada, and I shall now proceed to direct attention to the framework of the government established by that union.

The Canadian constitution, or British North America Act of 1867, is a statute of the parliament of Great Britain, to which as the supreme legislative authority of the empire the provinces of Canada had to apply to be federally united. In the addresses to the queen containing the resolutions of the Quebec conference of 1864, the legislatures of the provinces stated that in a federation of the British North American provinces "the system of government best adapted under existing circumstances to protect the diversified interests of the several provinces, and secure harmony and permanency in the working of the union, would be a general government charged with matters of common interest to the whole country, and local governments for each of the Canadas, and for the provinces of Nova Scotia, New Brunswick and Prince Edward Island, charged with the control of local matters in their respective sections."

In the third paragraph the resolutions declare that "in framing a constitution for the general government, the conference, with a view to the perpetuation of our connection with the mother country, and the promotion of the best interests of the people of these provinces, desire to follow the model of the British constitution so far as our circumstances permit." In the fourth paragraph it states that :—"The executive authority or government shall be vested in the sovereign of the United Kingdom of Great Britain and Ireland and be administered according to the well-understood principles of the British

constitution, by a sovereign personally, or by the representative of the sovereign duly authorized."

In these three paragraphs we see clearly expressed the leading principles on which our system of government rests :

A federation with a central government exercising general powers over all the members of the union, and a number of local governments having the control and management of local matters naturally and conveniently belonging to them, while each government is administered in accordance with the British system of parliamentary institutions.

These are the leading principles which were made law by the British North America Act of 1867, and which I propose to explain in the course of the following pages.

6.—How Canada is Governed.

As the most intelligible mode of explaining the nature of the somewhat complicated constitution of the Dominion, I shall divide the whole subject—How Canada is Governed—into several Parts which will set forth in order the functions and responsibilities that belong to the following authorities, governing the Dominion as a dependency of England, and as a federation of provinces.

1. *The Imperial Government*, exercising executive, legislative and judicial supremacy over the dependency through a sovereign acting by and with the advice of a responsible council, a judicial committee of the privy council, and a parliament.

2. *The Dominion Government*, whose executive, legislative and judicial powers as the central authority of the federation are exercised through a governor-general

appointed by the crown,* acting by and with the advice of a responsible council, a parliament, and the courts.

3. *The Provincial Governments*, exercising executive, legislative and judicial jurisdiction within their constitutional limits, through a lieutenant-governor, appointed by the governor-general in council, a responsible executive council, a legislature, and the courts.

In the course of these chapters I shall explain the nature of the relations between the Imperial and Dominion governments, and between the Dominion and Provincial governments. I shall also give, as a matter of convenience, a special place to the government of the territories though it falls, strictly speaking, under the second division, and to the government of municipalities and schools, though it belongs to the third division.

British Columbia.

1778—1849. Period of the explorer and fur trader.

1838. Lease of mainland, then called New Caledonia, to Hudson Bay Company for twenty-one years.

1849. Grant of Vancouver Island to Hudson Bay Company; James Douglas, a Hudson Bay Company Factor, to be Lieutenant-Governor with an appointed Council. The Council were all employees or dependents of the company.

1856. First Legislative Assembly for Vancouver Island consisting of seven members.

1858. Mainland created a Crown Colony as New Caledonia. Power was given to govern it by a Governor and an appointed Council, or a Governor, an appointed Council and an elected Assembly, the Act to remain in force until 1862, subsequently extended to 1863.

* "Crown" means the reigning sovereign.

1863. Governor and Council of fifteen appointed by the Sovereign or by the Governor with the approval of the Sovereign, the members to hold office during pleasure.

1866. Vancouver Island and Mainland united as one colony under the name of British Columbia, the jurisdiction of the Governor and Legislative Council being extended to Vancouver, and the number of members of the Council being increased to twenty-three, to give the necessary representation to Vancouver Island.

1867. Crown resumes possession of Vancouver Island, and grant to Hudson Bay Company cancelled.

1870. The Government to consist of a Governor, a Legislative Council consisting of fifteen members, nine elected and six appointed by the Governor subject to approval of the Sovereign, the appointed members to hold office during pleasure.

1871. This Government at once provided a new constitution consisting of a Governor, an Executive Council appointed by the Governor and responsible to the Assembly, and an elective House of Assembly.

1871. Confederation, with a constitution similar to the other provinces of Canada.

Manitoba.

1670—1869. Hudson Bay Company Rule and the fur-traders.

1869. Purchase of the rights of the Company by Canada.

1869--1870. Attempt to rule country with a Lieutenant-Governor and Council, but the Red River Rebellion prevented its establishment.

1870. Province of Manitoba created with a Lieutenant-Governor, an Executive Council and a Legislative Council appointed by the Lieutenant-Governor, on the advice of the Executive Council, and an elected Legislative Assembly, with responsible government the same as in the other provinces of Canada, and with representation in the Senate and House of Commons of Canada.

1876. Legislative Council abolished.

1881. Boundaries of Province enlarged.

1912. Boundaries of Province enlarged.

Saskatchewan and Alberta.

1905. The Provinces of Saskatchewan and Alberta created. Governed by a Lieutenant-Governor, an Executive Council responsible to the House of Assembly, an elected Legislative Assembly with the same powers as in the other provinces of Canada, and with representation in the Senate and House of Commons of Canada.

Northwest Territories.

1869. Lieutenant-Governor and Council appointed by the Governor-General, not exceeding fifteen and not less than seven members, with such powers as the Governor in Council may give them.

The Governor-General in Council to have power to make laws for the government of the Territories.

1871. Lieutenant-Governor and a Council of not less than seven and not more than thirteen members appointed by the Governor-General. (Eleven were so appointed).

1873. Council increased to a number not exceeding twenty-one.

1875. Council reduced to five, of which number the Stipendiary Magistrates (of whom there were three) were to be members *ex officio*. In 1877 this was increased to six members. The Lieutenant-Governor in Council was given certain of the powers possessed by the provincial governments. The Lieutenant-Governor, as soon as any district not exceeding one thousand square miles had a population of one thousand adults exclusive of aliens and unenfranchised Indians, could erect it into an electoral district which would thenceforth be entitled to elect a member of the Council, and when the elected members amounted to twenty-one the appointed Council was to cease and the elected members were to become a Legislative Assembly. From 1875 the powers of local government were increased from time to time, approximating by degrees the powers possessed by the provincial governments of Canada.

1886. Given a representation of four members in the House of Commons, increased in 1903 to ten, but this increase never came

into force, as in the meantime the major portion of the populated part of the Territories was erected into the two new Provinces of Saskatchewan and Alberta. In 1912 another large portion was divided up between the Provinces of Ontario, Quebec and Manitoba.

1857. Given two Senators, increased in 1903 to four.

1888. Lieutenant-Governor, an Advisory Council of four members of the House of Assembly selected by the Lieutenant-Governor to deal with matters of Finance, the Lieutenant-Governor having a vote in such Council and also a casting vote in case of a tie, and an elected House of Assembly with three legal experts appointed by the Governor-General, but who were without a vote. The legal experts selected were Judges of the Supreme Court of the Northwest Territories. In 1891 the legal experts were abolished, and the powers of the Legislative Assembly were specified, being most of those possessed by the Provincial Legislatures.

1894. The advisory committee given the name of Executive Committee, and to be appointed in future by the Legislative Assembly.

1905. A large portion of the Territories divided up into the two new Provinces of Saskatchewan and Alberta.

The remaining portion of the Territories excepting Keewatin and the Yukon Territory to be governed by a commissioner who may be assisted by a Council not to exceed four in number.

1912. A large portion of the remainder of the Territories including Ungava and Keewatin given to the Provinces of Ontario, Quebec and Manitoba.

Keewatin.

1876. Governed by a Lieutenant-Governor (the Lieutenant-Governor of Manitoba was *ex officio* Lieutenant-Governor). The Governor-General in Council authorized to appoint a Council of not less than five or more than ten members, and also, within certain limits, to make laws for the Territory.

1905. Re-annexed to the Northwest Territories.

SECOND PART.

IMPERIAL GOVERNMENT.

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CHAPTER I.

THE IMPERIAL GOVERNMENT: EXECUTIVE POWER.

1. Introduction.—2. The Sovereign.—3. Origin of the Cabinet or Royal Advisory Council.—4. Working of the Cabinet System and Meaning of "King in Council."

1.—Introduction.

As the system of parliamentary government which Canada possesses is derived from that of England, it is important that we should clearly understand the principles on which that government rests. For the purposes of this book it is only necessary to refer briefly to the following supreme authorities of the empire :

The Sovereign,

The Privy Council,

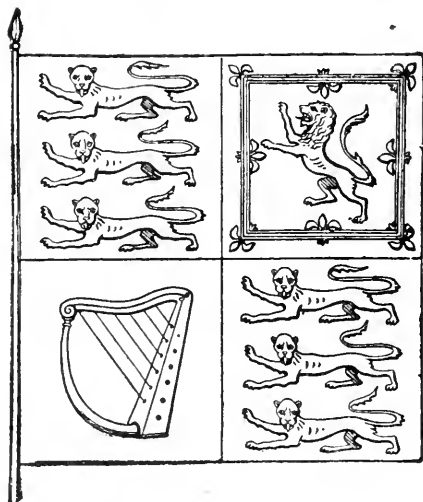
The Judicial Committee of the Privy Council,
Parliament.

2.—The Sovereign.

In accordance with the constitutional usages and rules which have grown up in the course of centuries, the reigning sovereign of England, at present a king, performs all executive acts through his privy council, administers justice by his courts, and makes laws for the whole empire in his great legislature or parliament.

The crown is hereditary by English law. A statute passed during the reign of William and Mary, and called

the Act of Settlement, settled the succession to the throne, vacated by James II, on the heirs of the Princess Sophia of Hanover, the granddaughter of James II. His Majesty the King is a lineal descendant of this



THE ROYAL STANDARD.*

princess. The titles of his majesty at present are as follows:—"George V., by the Grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India."

On the death of the sovereign the crown descends to a male heir, and failing a male heir to a female heir. The probable successor to the throne at the present

*The Royal Standard, or personal banner of the sovereign, displays the arms of England (three lions "passant" or walking); of Scotland (a lion "rampant," or erect as if attacking); of Ireland (a harp,)—the English arms being repeated on the fourth quarter in accordance with the rules governing such heraldic devices.

time—the “heir apparent” as he is legally called—is the Prince of Wales.

Though the crown is hereditary in the family of the present sovereign, it is at the same time subject to the authority of parliament—that is to say, of the sovereign, the lords and the commons, acting together as a supreme legislature. From the earliest times in the history of England we see the evidences of the supreme authority of the English national councils in their assertion of the right to limit and regulate the succession to the throne in a national emergency. The great council of early English days, the Witenagemot or assembly of the wise men—Witan meaning wise men, and gemot, an assembly—elected the king, who was the chief among the nobles of the land,—the choice falling as a rule on a member of the family of the deceased sovereign. Even William of Normandy, the conqueror of England, felt it necessary to give some show of title to his claim to the throne by being chosen by a national council he called together. In later times kings were deposed and chosen by the will of similar councils of the kingdom. The revolution of 1688, which deposed James II. for his violation of the recognized or fundamental laws and rights of the people of England, and placed William and Mary of Orange on the throne, was the last example our history gives us of the national council asserting its right to regulate the succession to the crown. Every sovereign, at his or her coronation, solemnly promises and swears “to govern the people of this kingdom and the dominions thereto belonging according to the statutes in parliament agreed on, and the respective laws and customs of the same.”

As the king is by law the head of the executive power, all acts of government must be carried out in his name. It is by him that parliament is called together for the despatch of business, or is prorogued—that is, a session closed—or is dissolved—that is, ending the life of the then house of commons, after which, a new house of commons will have to be elected before parliament can meet again. He is “the fountain of justice;” since he is represented in his courts by his judges; he alone can confer titles, distinctions and honours, and he alone can pardon offenders against the law. All these and other prerogatives—that is to say, the ancient rights and privileges belonging to the sovereign as the head of the kingdom—are not now immediately exercised by himself in person on his own responsibility, but only upon the advice of his council. Everyone has heard the maxim “The King can do no wrong.” The true explanation of which is, that if any act of the government is wrong, the council which advised the act is responsible and not the sovereign.

3.—Origin of the Cabinet or Royal Advisory Council.

In the early times of our history—for England’s history is Canada’s too—the sovereign always had his council to advise him. He had the great officers of his court always at hand, such as the chief justiciar, an officer who came next to the king in rank and whose powers were so great that in later days the office was abolished; the chancellor, the treasurer, the lord steward the chamberlain, the earl marshal, the constable and the two archbishops, and such other officers as the

king might from time to time appoint. In addition to this, the king was accustomed on great occasions, and generally at the great festivals of Christmas, Easter and Whitsuntide, to call together all the great men of his kingdom, both ecclesiastic and lay, to discuss affairs of state. These councils exercised executive, legislative and judicial powers, but as business and population increased, it became necessary to divide the work up, and some of the members attended to one class of work and some to another, and so out of the council of officers which was always in attendance on the king, there developed the privy council, appointed and presided over by the king, which attended to the executive work, but which has reserved to this day, part of its judicial powers in the jurisdiction of the judicial committee of the privy council, which is the final court of appeal in colonial cases, and in prize and ecclesiastic cases, the court of chancery, and the superior courts of common law presided over by the lord chancellor and the judges. While the periodical great councils developed into parliament, which does the legislative work and imposes or authorizes the taxes. In the principal common law court, the court of king's bench, the title of the court was, until recent changes and reforms, *coram ipso rege*—in the presence of the king himself—a curious relic of the time when the king actually presided there. The privy council became at last too large for purposes of consultation, and King Charles I. selected from its members a committee, who were named a cabinet council because they met in the king's private chamber.* This smaller council had no special authority behind it—the privy

*A private room for consultation was formerly called a "cabinet."

council as a body was alone recognized by the law as the responsible executive council—but King Charles I. found it most convenient for his purposes in times when he was intriguing against parliament. In the quarrels of the Stuarts with the commons, they were constantly asserting prerogatives in violation of the acknowledged rights of the people, and this council became very unpopular as the secret conclave, for the king and his instruments. It owed no responsibility to any one but the king himself, and it was not necessary that its members should have the support of the house of commons.

The practice of forming a committee out of the large body of privy councillors as a special or inner body of advisers of the crown has continued to the present time, but the modern cabinet council is not the irresponsible instrument of the royal will and pleasure that it was in the days of the Stuarts. Since the revolution of 1688, when James II. was deposed, there has been gradually developed the principle that the cabinet must be composed of privy councillors not only chosen by and responsible to the sovereign, but selected from those men who have seats in parliament and have the confidence of the majority of the people's representatives in the house of commons, the elected body of the great legislative council of the nation. As long as they keep the confidence of this house they remain the counsellors or ministers of the king, and are responsible for the work of administration and legislation, but the moment they lose that confidence the sovereign must choose another set of advisers or ministers, who must have the support of the popular house. Sometimes a ministry, defeated in parliament, will be allowed by the sovereign to ask

the support of the people at a general election. If they are supported at the polls and have a majority of the people's representatives, they remain in office. Otherwise they must give way to the men who have obtained the popular majority. Elsewhere, when I come to speak of the Canadian methods of government, which are copied from those of England, I shall explain how the prime minister, or head of the cabinet or ministry, and the members of that body are chosen (see p. 85).

4.—Working of the Cabinet System and Meaning of "King in Council."

When members of the house of commons, who are not privy councillors, are called upon to form a ministry, they must be first sworn of the privy council.* Then they are placed in charge of certain departments or offices of the government. One of these departments is entrusted with the supervision of the affairs of the colonial empire, and is called the secretary of state for the colonies (see *below*, p. 72).

The cabinet, or inner council, is the body that discusses and decides all questions of public policy : *i.e.*, the nature of the measures to be introduced into parliament, the relations of England with foreign countries, treaties of peace, declarations of war, questions affecting the government of Great Britain and Ireland, India, and the dependencies, important appointments, and the countless matters that devolve on the government of a great nation. Its deliberations are held in secret, and when it reaches a conclusion, we see the results in executive and administrative action, according to the well understood

* English privy councillors have the title of "Right Honourable."

methods of the British constitution. When the action of the head of the executive—that is of the sovereign—is necessary on any question of state, he is advised by the premier or responsible minister. The signature of the sovereign must also be given to the acts of the council—such as orders-in-council certain appointments by commission* and other acts of royal authority. In all cases any document, which is an act of the executive, must be countersigned by a responsible minister and may require to have the “great seal” or official evidence of the royal will affixed (see *below*, p. 94, for Canada’s great seal). Order-in-council means an order passed by the sovereign by and with the advice of the privy council—though it is really only on the advice of those privy councillors who are members of the cabinet. The king never acts alone. What he does in administration he does through the aid of a minister or ministry,—who are members of the privy council. In fact every act of the sovereign in his executive and royal capacity is done on the advice of a sworn counsellor. If the advice is wrong, or in violation of the law, the minister or ministry who gave it is open to the censure of parliament, or a particular minister may be brought before the ordinary courts of law. Consequently the maxim that “the King can do no wrong” has arisen from the adoption of the following constitutional principles:

1. That by no proceeding known to the law can the king be made personally responsible for any act done by him in his executive capacity.

* A commission is the written authority or order to perform certain duties; nearly all public officials, acting under the crown, have such an authority. It comes from the Latin word *committere*, to place or trust a thing somewhere.

2. That every executive act is the result of the deliberation of a sworn council, which advises the king thereon and is alone responsible for the advice.
3. That no minister of the crown can bring forward an order of the crown as a defence or justification of an act that is in violation of law.
4. That the minister who gives the advice becomes responsible and liable to punishment.

The sovereign, it is well to mention here, except on formal occasions, has never sat in council with the cabinet since the days of George the First, who departed from the practice of his royal predecessors on account of his ignorance of the English language. What was in his case a matter of convenience has ever since become the settled practice. Now the sovereign—and the same is true of the governor-general of the Dominion and a lieutenant-governor of a province—is informed of the results of the deliberations of council, and has to approve of them before they can be effective, but takes no part in the deliberations themselves.

CHAPTER II.

THE IMPERIAL GOVERNMENT : LEGISLATIVE POWER.

- 1. Sovereign in Parliament.—2. Origin of Parliament.—3. Characters of English and Canadian Constitutional Liberties.—4. Strength of Parliamentary Government.—5. The King's Onerous Duties as a Sovereign.*
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1.—The Parliament.

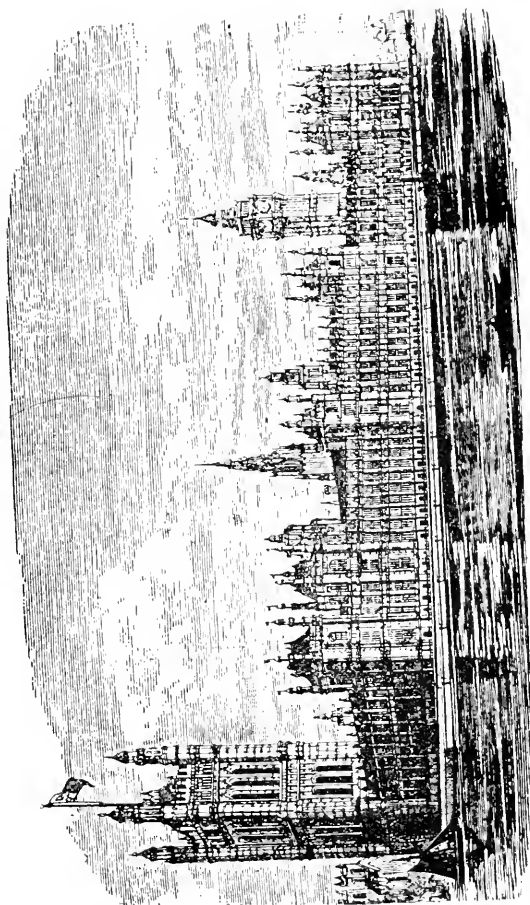
Every statute or law passed by the parliament of Great Britain and Ireland commences with these words:

“Be it enacted [*that is, made law*] by the King's Most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same as follows.”

I have quoted these words because they show that the sovereign legislates for his realm in parliament, whilst he acts in his executive capacity in the privy council. The legislation he assents to as the first branch of parliament he executes or carries out in his executive capacity, through and by the advice of his sworn counsellors and officers appointed and sworn to execute and administer the law justly and faithfully, as I have already explained.

2.—Origin of Parliament.

The origin of parliament must be sought in the early assemblies of our Anglo-Saxon ancestors, who came from the sea-coast of northern Germany and of Denmark. Their great council the Witenagemot of the times before



WESTMINSTER PALACE.

the Norman conquest, was a national assembly of great nobles, and ecclesiastical dignitaries, summoned by the sovereign to consult and deliberate on the affairs of the kingdom. After the Norman conquest it became known as the "Great Council." It had executive, legislative, and judicial powers. The king's special or permanent council to which I have referred above (*curia regis*) was part of this great council, and the whole formed the common council of the whole realm. Eventually, the archbishops and other great ecclesiastics or the lords spiritual, the nobles of the kingdom or the lords temporal, formed the House of Lords. It was a great noble, Simon de Montfort, Earl of Leicester—a statesman much in advance of his age—who overthrew King Henry III. on the battlefield of Lewes, who first summoned representatives of the towns and counties to meet bishops and nobles in a parliament in 1265. This scheme of Simon de Montfort was adopted by King Edward I. in 1295, and has ever since formed the basis of the parliament of England.

Edward accepted this great council, always thereafter known as parliament, as a most convenient instrument for raising taxes; it being the immemorial right of Englishmen to be taxed only with their own consent through their own representatives. The representative principle, as applied to government, is essentially English. Its origin can be traced to the "motes" or assemblies of the local divisions of England in early English times. In the municipal system of Canada, as I shall show later (see *Fifth Part*), we have copied the names of those local divisions and of their public officers.

3.—Charters of English and Canadian Constitutional Liberties.

From the days of Edward I., a wise monarch, there was for centuries a constant struggle between sovereign and commons for the mastery. The necessity for raising money by public taxation forced even the most arbitrary sovereigns to summon parliament sooner or later. At all times we find nobles and commons united to resist the unconstitutional efforts of kings to reign without the assistance of the national council. Magna Carta, one of the great statutes of English liberty, wrung from King John, on the field of Runnymede in 1215, affirmed the fundamental principle that Englishmen could not be taxed without the consent of the national council. Another great statute, known as the Petition of Right, grudgingly assented to by Charles I. four centuries later, when he could not resist the demands of parliament, again affirmed that no tax of any sort might be exacted without the consent of parliament. The Bill of Rights, passed in 1689, when William and Mary became joint king and queen of England, was a strong declaration of the original rights of the people, violated by James II., who had fled the kingdom. This famous charter of constitutional liberty set forth among other things :

That it is illegal for the sovereign to suspend or execute laws without the consent of parliament.

That it is illegal for the sovereign to dispense with laws.

That it is illegal to levy money without the consent of parliament.

That petitions to parliament are legal and punishments for them illegal.

That parliamentary elections ought to be free.

That freedom of speech and debate in parliament is subject to parliamentary control only.

That parliaments ought to be frequently held.

These are the fundamental principles of parliamentary government in England as in all the self-governing dependencies of the crown.

4.—Strength of Parliamentary Government.

The great object of parliament is taxation in order to meet the needs of government. English sovereigns soon recognized the fact that to successfully raise the money that they required the people through their representatives in parliament must impose the taxes, the control of the expenditures of the realm was only obtained after a long struggle. With the development of the principle of ministerial responsibility—the presence in parliament of a body of ministers responsible through the commons to the people—harmony was created between the executive and legislative departments. The cabinet is now the connecting link between the monarch and the people through their representatives in parliament. As advisers of the crown, as heads of the great departments of state constituting the government, as the recognized heads of the political party or combination of parties having a majority in the House of Commons, this cabinet, which is legally a committee of the privy council, is able to administer public affairs without that friction and conflict between executive and parliament which was the leading

feature of old times of irresponsible councils and the personal rule of sovereigns.

When we come to consider the government of Canada we shall see carried out all the English methods and principles explained above. The king in council, the cabinet, the parliament, are all to be found working in Canada.

5.—The King's Laborious Duties as a Sovereign.

Although the king performs all executive acts through responsible ministers dependent on the will of parliament and people, it must not be supposed that his functions as a sovereign are purely ornamental. On



the contrary, so high an authority as Mr. Gladstone, who was for many years a prime minister of Queen Victoria, has told us that "no head of a department performs more laborious duties than those which fall to the sovereign of this country." No despatch "is received from abroad, nor any sent from the country, which is not submitted to the queen." Her signature "has never been placed to any public document of which she did not approve." Cabinet councils "are reported and communicated on their termination by the minister to the sovereign and they often call from her remarks that are critical, and necessarily require considerable attention." In fact "such complete mastery of

what has occurred in this country, and of the great important subjects of state policy, foreign and domestic, for the last fifty years is possessed by the queen that he must be a wise man who could not profit by her judgment and experience." To these explanations of the active life of a great sovereign, it is well to add a fact not generally known to Canadians, that every governor-general is instructed to communicate directly to the king, from time to time, the fullest information on all questions of moment to Canada and the empire.

Edmund R. & J.

CHAPTER III.

THE IMPERIAL GOVERNMENT: JUDICIAL POWER.

1.—Origin of Courts of Justice. 2.—Judicial Committee of the Privy Council.

1.—Origin of the Courts of Justice.

We now come to the third division of government—the judicial authority.

At the time of the Norman conquest justice was administered through local courts. The King and the Witan or great council of the Saxon sovereigns also heard and decided cases and appeals, but their jurisdiction was, as might have been expected in those primitive times, loose and ill defined. The principal local courts were the shire-moot, or county court, the sheriff's-tourn, the hundred-moot and the tun-moot, which were presided over by the reeves of the shire, hundred and town respectively, the bishop being also a member of the county court. After the Norman conquest the bishop withdrew from the county court and the power and jurisdiction of the court steadily declined. William I. established and extended the judicial powers of the great council, consisting of the great officers of state, and added to these officers a number of justices or judges, and these justices were sent from time to time travelling through the kingdom, holding courts at the principal places administering civil and criminal justice.

These justices in eyre (from *itineria*) had a most important effect in securing uniformity in the law of England. With the increase in business three courts were developed from the king's court or *curia regis*, namely, the court of king's bench, with jurisdiction over criminal matters, appeals from inferior courts, liberty of the subject, control of corporations and civil actions founded on torts or wrongs, such as trespass, fraud, etc. The common pleas, which had exclusive jurisdiction with respect to land and suits between private persons and the exchequer, which had exclusive jurisdiction with respect to cases affecting the royal revenues. From the lord chancellor, who was an officer of the *curia regis*, sprang the court of chancery. These courts at first accompanied the king, but it was provided by Magna Carta that "common pleas shall not follow our court, but shall be held in some fixed place." That fixed place was Westminster Hall, the great hall of the king's palace at Westminster. The courts of king's bench and exchequer also finally settled at Westminster, the judges still going on circuit throughout the kingdom but hearing cases on circuit by virtue of special commissions. The judges and officers of the courts being paid by fees, the king's bench and exchequer by what is called legal fictions, acquired jurisdiction in ordinary suits between private persons in order that they might increase their revenue. In the exchequer, for instance, the plaintiff said he was the king's debtor, and because the defendant would not pay him what he owed he was unable to pay his debt to the king, and the court would not allow this statement to be questioned. The judges originally held office during the king's pleasure, and there are many instances of judges being deprived of their offices because

they did not do what the king desired. After James II. was driven from the throne the independence of the judges was protected by the Act of Settlement which provided that the judges were thenceforth to hold their offices during good behaviour, and, under the British North America Act, 1867, it is provided that the judges of the superior courts shall hold office during good behaviour, but shall be removable by the governor-general on address of the senate and house of commons. Such an address would only be passed for a very grave offence and after full investigation. It is a matter for Canadians to be proud of that during the fifty years since Confederation there has been no occasion to invoke these powers.

2.—The Judicial Committee of the Privy Council of England.

With the constitution and procedure of the courts of law of England Canadians have no direct connection. Justice is administered in their own courts, which have full jurisdiction over all matters of Canadian concern, and the king is in theory as much present in Canadian as in English courts. But over the empire there is one great court of appeal, to which appeal can be made in cases of important controversy and doubt. The origin of this court, called the judicial committee of the privy council, must be sought in the fact that even after the formation of the regular courts out of the great council of the sovereign (see *above*, p. 55), some of the judicial powers still remained and were exercised in the great council of the sovereign. The great council became divided into the house of lords, which still has a remnant of its judicial powers in being the final court of appeal

for most cases arising in the United Kingdom and the privy council. This latter was eventually divided into committees, one is the cabinet and one is the judicial committee (see *below*, p. 72). It is now regulated by statute and is composed of the lord high chancellor and other legal functionaries, who must all be members of the king's privy council. Since 1897 Canada has been directly represented in this high tribunal by the chief justice of the supreme court of Canada who is a member of the judicial committee and the other great colonies are also similarly represented.

CHAPTER IV.

NATURE OF IMPERIAL CONTROL OVER CANADA.

- 1. Introduction.—2. Governor-General.—3. Secretary of State for the Colonies.—4. Judicial Committee.—5. Canadian Rights of Self-Government.—6. Making of Treaties.—7. When Canadian Legislative Acts may be Disallowed.*
-

1.—Introduction.

With these explanations of the leading principles of the supreme government of the empire, I come now to explain to my readers in what manner and to what extent this imperial government can and does exercise authority or control over this dependency of Canada. The following principles and methods of procedure may be laid down as governing the relations between the imperial and dominion governments :

2.—The Governor-General.

The king, as the head of the executive authority of the empire, acts through a governor-general. It is through the governor-general that all communications between the imperial and Canadian government must pass. When the Canadian parliament requires any legislation that properly falls within the jurisdiction of the imperial parliament, addresses to the king are passed by the former body, setting forth the nature of the legislation desired—such as an amendment to the British North America Act of 1867, which is an imperial statute,

and can only be amended by the same authority that made it. This address is forwarded by the governor-general with such remarks as are necessary, to the secretary of state for the colonies.

3.—The Secretary of State for the Colonies.

This minister is the head of the department of colonial affairs, all possessions of the crown, except India, being designated colonies. It is for this important minister, who has always a seat in the cabinet, to bring the address or other matter requiring the action of the king and council before that body. The council on his advice will agree to introduce and pass such legislation in parliament as will meet the difficulty that has occurred in the Dominion. By the constant interchange of communications between the imperial and dominion governments, agreements are come to on every question which requires adjustment, and any friction in the relations of the two governments is thus prevented.

4.—The Judicial Committee.

The king's courts in Canada administer justice in all cases affecting Canadians, whether of a criminal or civil nature, in accordance with the rights of self-government accorded by law to the Dominion. Appeals can, however, be made in important cases from the supreme court of Canada if the judicial committee grants leave, and from the superior courts of the provinces, to the judicial committee of the privy council under certain prescribed conditions. The judicial committee is composed of eminent judges—generally four or five, though three are a quorum—who hear arguments and finally

report their decision to the king in council. This decision is authoritative and settles the case.

5.—Canadian Rights of Self Government.

It is a fundamental principle of the English constitution, as I have shown above, that a people under English government can be taxed only with their own consent, given through their representatives. The imperial parliament having granted to Canada a complete system of local self-government, with full control over taxation and expenditure, it is only in Canadian parliaments—and I here include provincial legislatures—that Canadian taxes can be imposed or authorized and the expenditure of Canadian money authorized and controlled. If at any time Canada requires imperial legislation, on any subject not within her legislative control, she applies to the king in council in the way I have described above (see p. 71). The imperial parliament cannot of its own motion constitutionally interfere with rights of local self-government granted to the dependency.

6.—Making of Treaties with Foreign Powers.

The king's government alone, as the supreme executive of the empire, can negotiate treaties with foreign sovereign nations. Canada being only a dependency cannot of her own motion or action give validity to a treaty with a sovereign nation. It is through the imperial government that all treaties immediately affecting her must be made. It is, however, now an understanding, or even maxim of the policy governing the relations between England and the Canadian Dominion,

that Canadian representatives shall be chosen and clothed with all necessary authority by the king in council to arrange treaties immediately affecting Canada, and that all such treaties must be ratified by the Canadian parliament.

**7.—When Canadian Legislative Acts may be
“Disallowed.”**

It is a provision of the Canadian constitution that every act passed by the parliament of Canada must be submitted by the governor-general to the king in council. This is a declaration of the sovereign authority of the imperial government, and it is within the power of the king in council, responsible for the unity and security of the whole empire, to refuse to consent to, or in constitutional language, to “disallow,” an act (see *below*, p. 74) which is in conflict with the interests of the empire at large, may threaten its integrity, or is at variance with treaties between England and any foreign nation.

It would be unconstitutional, however, for the imperial government to interfere in any matter clearly and exclusively within the authority of the dominion government. When the imperial parliament gave Canada a federal union and a complete system of local self-government, and the right to legislate on certain subjects set forth in the constitution (the British North America Act of 1867), it gave her full control of all such matters, and constitutionally withdrew from all interference in the strictly local concerns of the Dominion. It is only when the interests of the empire are in direct conflict with the privileges extended to the dependency that the sovereign authority of England should be brought into action.

This sovereign authority should never be arbitrarily or indiscreetly exercised, but should only be used after full discussion between the governments of England and the dependency, so that the interests of the two may be brought, as far as possible, into harmony with each other.

8.—Imperial control is exercised over Canada.

1. Through the governor-general appointed by the sovereign in council ;
2. Through the power of the imperial parliament to pass legislation affecting Canada ;
3. Through the power of the sovereign to disallow legislation passed by the parliament of Canada ; and
4. Through the powers exercised by the judicial committee of the privy council as the final court of appeal. (As the privy council must decide all cases in conformity with the law, it cannot, perhaps, strictly speaking, be said to exercise a control.)
5. Through the inability of Canada to enter into treaties with foreign countries except through the imperial authorities.

THIRD PART.

THE DOMINION GOVERNMENT.

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CHAPTER I.

THE DOMINION GOVERNMENT : EXECUTIVE POWER.

- 1. Introduction.—2. The Governor-General.—3. Privy Council for Canada: Heads of Departments of Government.—4. Ministers not in the Cabinet.—5. The Premier.—6. Rules and Usages of Parliamentary Government.—7. Governor-General in Council.—8. Civil Service.—9. Great Seal of Canada.—10. Dominion Coat-of-Arms.—11. Dominion Flags.*
-

1.—Introduction.

In the previous chapter, I have given a short summary of the different authorities that govern the empire as a whole, and now come to the federal government of the Dominion itself. This government is divided among the following authorities :

The sovereign, as the head of the executive, represented by a governor-general.

A cabinet, members of the privy council for Canada, forming the responsible advisory council of the sovereign's representative usually called the "Government."

A parliament, exercising legislative functions over the whole of Canada.

A supreme court, exercising judicial functions as a court of appeal from the courts of the provinces, and for the settlement of constitutional difficulties ; and the other courts enforcing the various Dominion laws.

The duties of these separate authorities will now be explained.

2.—The Governor-General.

The king is the head of the executive government of Canada. He is as much the sovereign of Canada as of England or of Scotland, or of Ireland, and his supremacy must be acknowledged in all executive or legislative acts of this dependency. As he is unable to be present in person in Canada he is represented by a governor-general appointed by his majesty in council.

This functionary, chosen from public men of high standing in England, has double responsibilities, for he is at once the governor-in-chief of a great dependency, who acts under the advice of a ministry responsible to parliament, and he is at the same time the guardian of imperial interests. He is bound by the terms of his commission, and can only exercise such authority as is expressly or impliedly entrusted to him by the king. He must report regularly on all those imperial and other matters on which the secretary of state for the colonies should be informed (see *above*, p. 66). Bills reserved for the consideration of the imperial government are forwarded by him to the secretary of state for the colonies with his reasons for reserving them. The British North America Act provides that copies of all acts of the Canadian parliament shall be sent by him to the secretary of state for the colonies, that they may be duly considered and disallowed within two years in case they are found to conflict with imperial interests or are beyond the legitimate powers of Canada as a dependency. The governor-general, as the head of the executive of Canada,

Monck

Sir John Young
Lisgar*

Dufferin

Lothian

Lanidowne

Stanley of Preston

AUTOGRAPHS OF GOVERNORS-GENERAL SINCE 1867.

*Sir John Young was created Baron Lisgar in 1870, while governor-general.

Burdan

Prints

Guy

Arthur -

Devonshire.

AUTOGRAPHS OF GOVERNORS-GENERAL SINCE 1867.

assembles, prorogues and dissolves parliament and assents to bills in the name of his majesty ; but, in the discharge of these and all other executive duties, he acts entirely in accordance with the advice of his council who must always have the support of the house of commons. Even in matters of imperial interest affecting Canada he consults with his council and submits their views to the colonial secretary of state in England. On Canadian questions clearly within the constitutional jurisdiction of the Dominion he cannot act apart from his advisers, but is bound by their advice. Should he differ from them on some vital question of principle or policy he must either recede from his own position or be prepared to accept the great responsibility of dismissing them ; but a dismissal of a ministry is an extreme exercise of authority and not in consonance with the general constitutional practice of modern times, when his advisers have a majority in the popular branch of the legislature. Should he, however, feel compelled by very exceptional circumstances to resort to this extreme exercise of the royal prerogative, he must find another body of advisers ready to assume full responsibility for his action and justify it before the house and country. For every act of the crown, in Canada and in England, there must be some one immediately responsible, apart from the crown itself. But a governor, unlike the sovereign, cannot be "freed from responsibility for his acts or be allowed to excuse a violation of the law on the plea of having followed the counsels of evil advisers." Cases may arise when the governor-general will be unable to come to a conclusion on a matter involving important consequences, and then it is quite proper for him to seek advice from his official

chief, the secretary of state for the colonies, even if it be a matter not involving imperial interests.

The royal prerogative of mercy* is no longer exercised on the sole judgment and responsibility of the governor-general, but is administered pursuant to the advice of the minister of justice, or in capital cases on the advice of the cabinet. With respect to the allowance or disallowance of provincial acts, ever since the coming into force of the British North America Act, the governor-general has invariably acted on the advice of his ministers, and has never asserted a right to decide otherwise. Even in the exercise of the all-important prerogative of dissolving parliament, which essentially rests in the crown, he acts on the advice of his ministers.

Occupying a position of neutrality between opposing political parties, and having no possible object in view except to promote the usefulness and dignity of his high office, the governor-general must necessarily, in the discharge of his important functions, have many opportunities of aiding the interests of the country over whose government he presides. Although the initiation of public measures necessarily rests with the ministry, yet there are numerous occasions when his counsel is invaluable in dealing with matters of the gravest political concern. If we could see into the inner councils of government, we would be surprised at the influence a prudent and conscientious governor can and does exercise in the administration of public affairs. While he continues to be drawn from the ranks of distinguished Englishmen, he evokes respect as a link

**i.e.*, the pardoning of convicted criminals, or reducing their punishment. Capital cases are those in which the sentence is death.

between the parent state and its dependency. In the performance of his social duties, he is brought into contact with all shades of opinion, and wields an influence that may elevate social life and soften the bitterness of public controversy. In the tours he takes from time to time throughout the Dominion, he is able to make himself acquainted with all classes and interests, and, by the information he gathers of the resources of the country, he can make himself an important agent in the development of Canada. In the encouragement of science, art and literature, he has always a fruitful field in which he may perform invaluable service.

3.—The Privy Council of Canada.

The British North America Act of 1867 provides that the council, which aids and advises the governor-general, shall be styled the "King's privy council for Canada," recalling that ancient council whose history is always associated with that of the king as far back as the earliest days of which we have authentic record (*see above*, p. 54). As in England, the terms "cabinet," "ministry," "administration," and "government," are all applied in Canada to those members of the privy council who are for the time being at the head of public affairs. Privy councillors are appointed for life, but, when not members of the government, their office is simply one that entitles them to certain precedence on state occasions and has no official responsibility. When the governor-general appoints a body of advisers to assist him in the government, he calls them first to be members of the privy council and then to hold certain offices or departments of state. It sometimes happens, however, that ministers are

appointed to the cabinet without having any department to administer, and are then called ministers without a portfolio,* in accordance with English practice. The number of members of the cabinet vary from fourteen to eighteen, of whom fifteen are heads of departments. At the present time there are the following heads of departments or divisions of the government for purposes of administration :

1. *The President of the Privy Council*, who presides over the meetings of the cabinet. All orders-in-council, and acts of the council, are sent from this office to those departments and persons who have to act under them. This position is usually held by the prime minister, who is also usually the secretary of state for external affairs, and also takes charge of the Northwest mounted police. The department of external affairs conducts the official communications between Canada and other countries, and international and inter-colonial matters. On the formation of the union government in 1917, the prime minister resigned the presidency of the council and continued to hold the office of secretary of state for external affairs.

2. *Minister of Justice and Attorney General of Canada*, who is the legal adviser of the governor-general and all departments of the government. He has the supervision of matters affecting the administration of justice in Canada, reviews all legislative acts of the provinces within one year after their receipt (see *below*, p. 174), and is the law officer of the Dominion government. He has also the superintendence of the prisons and penitentiaries of Canada. He is assisted by the solicitor-general, who is sometimes a privy councillor and a member of the cabinet, and sometimes not.

3. *Minister of Finance and Receiver General*, who has charge of all matters relating to the finances and expenditures of the Dominion. He lays before parliament the "budget" (see *below*, p. 126) or official statement of the financial condition of the

* In England, ministers in charge of a department have a portfolio, in which official departmental papers are carried, a minister without a department would be without a portfolio, hence the term.

country, explains the policy of the government with respect to public taxation, the public credit and the public currency, and also supervises the banks and insurance companies.

4. *Minister of Trade and Commerce*, whose duties extend to the execution of all laws enacted by the parliament of the Dominion relating to such matters connected with commerce generally as are not by law assigned to any other department of the government of Canada. The census and statistics.

5. *Minister of Agriculture*, who has charge of the following matters:—Agriculture, public health and quarantine, patents of invention, copyright, industrial designs, trade marks, and experimental farms.

6. *Secretary of State*, who is the custodian of the great seal of Canada, and has charge of all the correspondence between the government and the provinces, registers all documents issued under the great seal, administers the company and naturalization laws (see *below*, p. 95); is in charge of the department of public printing and stationery which does all the printing and supplies all the stationery and books for all the departments of the public service, and also of the department of mines and the geological survey.

7. *Minister of Marine and Fisheries*, who is also minister of the naval service, and who has supervision of the sea-coast and inland fisheries, lighthouses, beacons, harbours and piers, steamers and vessels belonging to the government, examination of masters and mates of vessels, inspection of steamers, establishment and regulation of marine hospitals, the St. Lawrence ship channel, the navy, wireless telegraphy, and generally all such matters as are connected with the marine, fisheries and navigation of Canada.

8. *Minister of Militia and Defence*, who is responsible for the administration of militia affairs, including fortifications, armouries, munitions of war, stores, schools of instruction, and the military college at Kingston.

9. *Minister of the Interior*, who has control and management of the affairs of the Northwest Territories, of the Indians, and of all public lands belonging to the government.

10. *Postmaster General*, who has the management of the post offices and all arrangements relating to the postal service in

Canada, and between Canada and all other parts of the world.

11. *Minister of Public Works*, who has charge of the construction, repairs and maintenance of all public buildings and works (except railways and canals).

12. *Minister of Railways and Canals*, who has charge of the government railways and the canals.

13. *Minister of Customs*, who has the management of the collection of the duties of customs, and of all matters incident thereto.

14. *Minister of Inland Revenue*, who has the management of the collection of excise duties, of weights and measures, and of all internal taxes generally.

15. *Minister of Labour*, whose duties are to act as arbiter in labour troubles, with power to intervene in strikes, etc.

This enumeration of the duties of the several departments is not complete, for as the country develops new duties arise and powers and duties are also often transferred from one department to another.

On the formation of the union government in 1917 two new ministerial positions with departments were created. The secretary of state for external affairs as above mentioned and a minister of colonization and immigration. Four ministers without portfolios were appointed, special duties having to be performed in connection with the hospitals, the war, and preparation to meet conditions arising after the war.

Ministers in charge of departments receive \$7,000 a year, and the first minister an additional \$5,000, besides the sessional indemnity of \$2,500. Each department has a permanent and non-political deputy minister appointed by the governor in council.

4.—Ministers not in the Cabinet.

In 1892 an effort was made to establish the English practice of having subordinate ministers members of the government, but not in the cabinet. The departments

of customs and inland revenue were placed under controllers subject to the minister of trade and commerce. In 1897 these ministers were restored to their former status. A solicitor-general was created at the same time subject to the minister of justice, and this officer still continues (see *above*), and during the war under secretaries have been appointed to assist the minister of militia and the prime minister in the work of the department of external affairs. During the war a "minister of overseas military forces" was also appointed to attend to military matters in England.

5.—The Premier of the Cabinet.

As the members of a cabinet only occupy office while they retain the confidence of the lower house, the majority necessarily sit in that body, though there is always a minister in the Senate to lead that house. Since the Commons hold the purse strings, and directly represent the people, the heads of the most important departments, especially of finance and revenue, must necessarily be in that branch. The ministry, then, is practically a committee of the two houses. Its head is known as the "premier" or prime minister, who, as the leader of a political party, controls the government of the country. He is first called upon by the sovereign (or, in Canada, by the sovereign's representative the governor-general, or lieutenant-governor in the case of a province) to form a ministry. When he is entrusted with this high responsibility it is for him to choose such members of his party as are likely to bring strength to the government as a political body, and capacity to the administration of public affairs. The governor-general,

on his recommendation, appoints these men to the ministry. As a rule, in all matters of important public policy the communications between the cabinet and governor take place through the premier, its official head. Every minister, however, has a right to communicate with the governor-general. If the premier dies or resigns the cabinet is dissolved, and the ministers can only hold office until a new premier is called to the public councils by the representative of the crown. It is for the new premier then to ask them to remain in office, or to accept their resignation. In case a government is defeated in parliament, the premier must either resign or else convince the governor-general that he is entitled to a dissolution of parliament with the attendant general election on the ground that the vote of censure does not represent the sentiment of the country.

6.—Rules and Usages of Parliamentary Government.

In the rules governing the formation of the cabinet, its dissolution by death of the premier, its resignation when defeated in the commons, and the relations between the governor-general and his advisers, we see the operation of the conventions, understandings and maxims that have grown up in the course of time, and make parliamentary government workable. These conventions, rules and usages are not "rules of law" in the strict sense of the phrase. We do not find them laid down in the British North America Act, or in any statute or law of England or of Canada. The courts can hear and decide any case or action arising out of most of the statutory provisions of the constitution, but they could not be asked to decide on such a matter as

the propriety of a ministry resigning on a hostile vote in the people's house. These conventions and understandings have now entered into the practice of parliamentary government as absolutely essential to its operation, and have now as much force in England and the self-governing dependencies as any statutory enactment, since they have the sanction of public approval and can in most cases be enforced by Parliament itself. Their own convenience and appropriateness are, however, their principal protection.

7.—The Governor-General in Council.

All orders-in-council, commissions, proclamations, and other acts of executive authority, follow the course of English precedent (see *above*, p. 58). The governor-general in council means the governor-general acting by and with the advice of the committee of the privy council of Canada—that is to say, the cabinet. Proclamations summoning, proroguing and dissolving parliament, writs of election, and commissions to office must be signed by the governor-general, countersigned by a minister or other proper officer, and bear the great seal of Canada (see *below*, p. 93). On every executive act there must be the evidence of ministerial responsibility and authority.

8.—Civil Service.

The effectiveness of administration largely depends on the conduct and ability of the civil service of Canada, which is the term generally applied to all classes of public officials and employees in the several departments of the executive government. "Civil service" is an old English phrase, used to distinguish the subordinates in the civil government from those in the naval and military

services of the country, and is now divided into the inside and outside service—the former being those in the several departments of the executive government at Ottawa, including the offices of the auditor-general, the clerk of the privy council, the governor-general's secretary, the central experimental farm, and the Dominion astronomical observatory ; the outside division consists of the rest of the public service.

In 1908 a civil service commission was established consisting of two members appointed by the governor in council—this number was subsequently increased to three—and these commissioners hold office during good behaviour. Its duties are to test and pass on the qualifications of candidates and to investigate and report on the operation of the civil service act and any violations thereto. The most important changes introduced by this law besides the above are:—1. Appointments to the inside service by competitive examination ; 2. A reclassification of the service. Candidates, if successful, are received on probation for six months. If not rejected during this interval, they are *ipso facto* permanently appointed. Promotions are made by the governor in council on recommendation of the head of the department, based on the report of the deputy minister and accompanied by a certificate of qualification from the commission. City postmasters, inspectors of post offices, inspectors, collectors and preventive* officers in the customs, and many others in the outside service, may be and are generally appointed without examination. These offices are generally given as rewards for political

* Preventive officers are those whose duties are to prevent smuggling of goods into Canada, that is to say, without paying the duty required by law.

services, but steps are now being taken to prevent this in future, and to place the outside service in the same position as the inside service. The moment, however, these men are appointed and show themselves capable in the discharge of their duties, they are regarded as permanent officials. Recognizing this, the public officials of the Dominion as a rule keep aloof from party conflict and intrigue, and confine themselves to their duties. Previous to 1898 all officials of the civil service were entitled to a pension on retiring from office after a service fixed by law, but in that year the system was abolished for future appointments, and in its place a "retirement fund" was created by the reservation of five per cent. out of the salary of each official; on the official's retirement the amount to his credit in the fund, with interest compounded half-yearly at four per cent., is paid to him.

The auditor-general, who examines, and reports to parliament on all public expenditures, is removable only on the address of the two houses of parliament. The object being to make him independent and fearless in performing his very important duties often involving the criticism of expenditures made by the government.

9.—Great Seal of Canada.

By his majesty's command the government of the Dominion of Canada has authority to use a special great seal, composed of the royal effigy, with appropriate armorial surroundings and a combination of the arms of the four provinces that first entered into a federal union. The new seal consists of:

The king seated upon the throne, crowned, and with orb and sceptre in his hands. Placed, apparently, upon the straight stems of two young oak trees on either side of him, the leaves and acorns showing between the shields, are four *separate* shields; upon his

right hand hangs the coat-of-arms of Ontario, that of Nova Scotia beneath it; on his left the shield of Quebec, with that of New Brunswick below. Beneath his feet is a shield displaying his own coat-of-arms, without supporters, crown, or motto; in the tracery above the throne or chair of state is the motto "Dieu et mon droit" (God and my Right). In the circular margin of the whole seal, in large letters:—"Georgius V Dei Gratia, Britanniarum et terrarum transmarinarum quæ in ditione sunt Britannicâ Rex, Fidei Defensor, Indiae Imperator" and just inside the outer circle at foot of throne the words, "In Canada Sigillum, 1912." ("George V, by the grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the seas, king, defender of the Faith, Emperor of India. Seal in Canada, 1912.")

The illustration following will give a better idea of the seal than a mere verbal description.



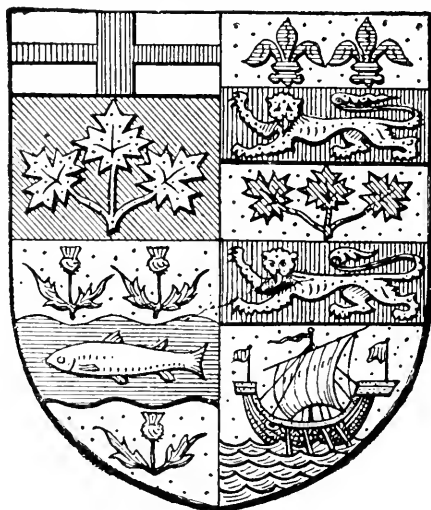
THE GREAT SEAL.

This seal, in accordance with the usages of English law, is the emblem of the royal authority in Canada, the evidence of the royal will and prerogative exercised under the constitutional forms peculiar to our system of government. We can trace the use of such a seal to very early times in English history. Its keeper was and is still the lord high chancellor of England—the highest judicial officer. Absolute faith is given to every paper that bears this seal. In Canada it is in the custody of the secretary of state and is affixed to proclamations summoning, proroguing and dissolving parliament; to writs of election, commissions of lieutenant-governors, judges, members of the privy council, departmental ministers, the speaker and members of the senate, chief clerks of the two houses, deputy ministers, and numerous other public officers. All documents bearing the great seal must be countersigned by the minister of justice and the secretary of state. The signature of the minister of justice is to show that the document is in proper legal form and lawful, the secretary of state signs as custodian of the great seal and to show that proper authority exists for the issue of the document.

10.—The Dominion Coat-of-Arms.

The arms of the Dominion are composed of the arms of the four original provinces—Ontario, Quebec, Nova Scotia and New Brunswick—quartered or combined in one shield, as is shown below and on the flag of the governor-general on another page (see *below*, p. 97). It is not unusual to add the armorial bearings of the other provinces that have been brought into the union since

1867*— Prince Edward Island, Manitoba, British Columbia, Alberta and Saskatchewan—but this cannot properly



DOMINION COAT-OF-ARMS.

be done without express royal authority, and until this is so ordered the correct and legal Dominion shield of arms is as stated above.

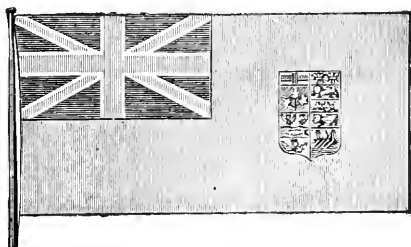
11.—Dominion Flags.

The famous English flag commonly called the “union jack” is flown from all the fortresses and garrisons of Canada, whether under the charge of imperial military authorities or colonial militia forces. The Union Jack is a combination of three flags. The red cross on the white ground is for England, the white cross with the arms placed diagonally on a blue ground for Scotland,

*All the Arms of the Provinces are given in the Fourth Part of this work.

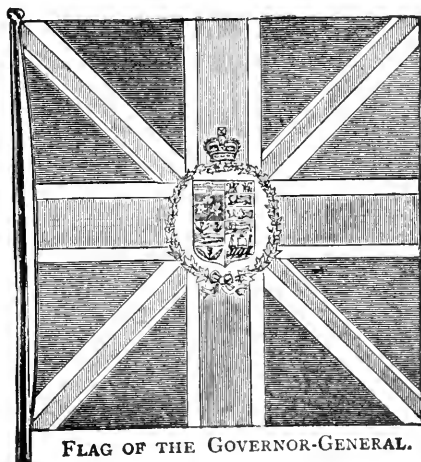
and the red cross with the arms placed diagonally on a white ground for Ireland. It is seen on the flags of Canada illustrated below.

The Dominion of Canada has also its own flag, viz., the red or blue ensign, a flag of plain red or blue having the union jack in the upper "canton," or corner next the



THE RED ENSIGN OF CANADA.

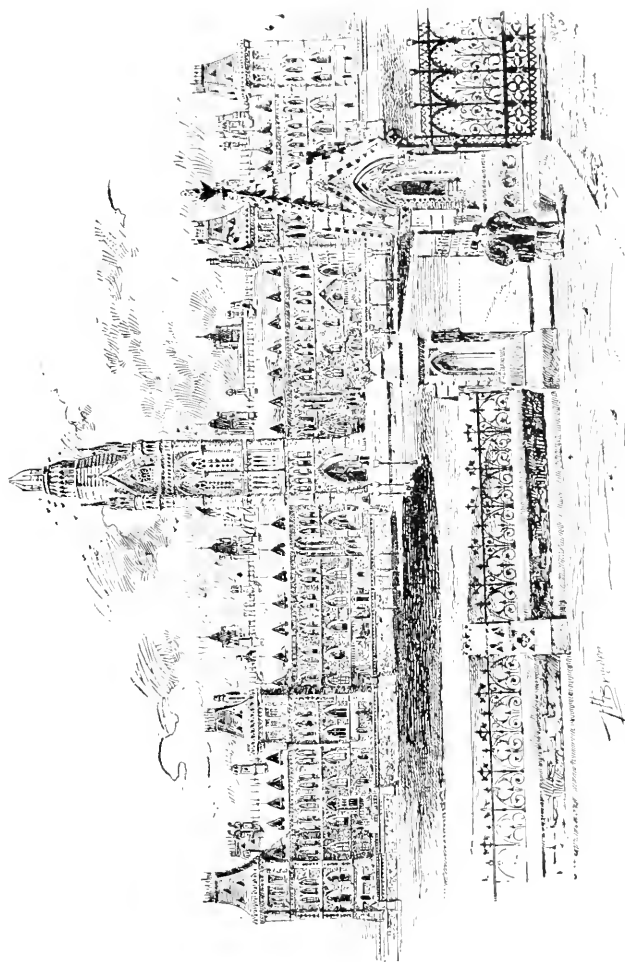
mast, and the Dominion coat-of-arms in the "fly" or field of the flag.



FLAG OF THE GOVERNOR-GENERAL.

The union jack is displayed at the opening and closing of parliament and on national occasions. The blue ensign with the arms of Canada on it is a distinguishing flag of the government vessels of Canada ; the mercantile marine of the Dominion has a right to use the red ensign with the arms of Canada on it.

The governor-general has authority to use a plain union jack in the centre of which are the Dominion arms, surrounded by a garland of maple leaves and surmounted by a crown, as we show on the preceding page. Imperial regulations at present for some reason limit the use of this flag to occasions when the governor-general is "embarked in boats and other vessels." The union jack is ordered to be flown at the government house at Ottawa on ordinary occasions ; the royal standard at the government houses at Ottawa and Quebec, and at the citadels in Quebec and Halifax on the king's birthday and on the days of his majesty's accession and coronation. On the Toronto government house, the private flag of the lieutenant-governor (see *below*, p. 160) is used, and other lieutenant-governors have the same right, though the union jack is flown on ordinary occasions at Quebec. This provincial capital appears also, as I have shown, to occupy an exceptional position with respect to the uses of the royal standard.



PARLIAMENT BUILDING, OTTAWA, DESTROYED BY FIRE, FEBRUARY, 1916.

CHAPTER II.

THE DOMINION GOVERNMENT : LEGISLATIVE POWER.

1. *Senate.*—2. *House of Commons.*—3. *Speaker of the House of Commons.*—4. *Officers of the Houses.*
-

We have now to review the nature of the functions of the senate and house of commons, who, with the king (represented by a governor-general), constitute the parliament of Canada.

1.—The Senate.

Two houses always formed part of the provincial legislatures of British North America from 1791 until 1867, when Ontario, whose example has been followed by all but two of the other provinces of the confederation, decided to confine her legislature to an elected assembly and the lieutenant-governor. The upper house or senate of the Canadian parliament bears a name which goes back to the days of ancient Rome, and also invites comparison with the distinguished body which forms so important a part of the congress or national legislature of the United States ; but neither in its constitution nor in other respects does it resemble those great assemblies.

Three great divisions of Canada (1) the Maritime Provinces (2) Ontario, and (3) Quebec, were in 1867, each given an equal representation of twenty-four members to afford a special protection to their interests in the upper house. Since 1867, the entrance of other provinces has disturbed this plan. Manitoba was given two in 1870 to be increased to three when the population rose to 50,000, and to four when it rose to 75,000, which happened in 1882 and 1892 respectively. British Columbia was given three senators when it came into confederation, and the provinces of Alberta and Saskatchewan were each given four senators when they were created.

In 1915, the British North America Act was amended at the request of Canada, and four great divisions were created, each to have twenty-four senators as follows :

1. Ontario	24	
2. Quebec	24	
3. Maritime Provinces	24	<div> <div>{</div> <div> Nova Scotia 10 New Brunswick 10 Prince Edward Island 4 </div> </div>
4. Western Provinces	24	<div> <div>{</div> <div> Manitoba 6 British Columbia 6 Saskatchewan 6 Alberta 6 </div> </div>

but this increase of nine senators was not to take place during the lifetime of the then existing parliament. The senators are appointed under the great seal of Canada, by the governor-general, on the recommendation of his

council. A senator must be of the full age of thirty years, and have real and personal property worth four thousand dollars over and above his liabilities. The speaker of the senate, who is the presiding officer but with much less power and importance than the speaker of the house of commons, is appointed by the governor-general in council. In legislation, the senate has the same powers as the house of commons, except with respect to measures imposing taxes, or expending the public moneys. Such measures must commence in the house of commons (see *below*, p. 124), and the senate cannot even amend or make any changes in them. Divorce bills are always presented first in the senate, but this is simply as a matter of convenience; it has no greater legal power in this respect than the commons. The senators of the province of Quebec must reside in the divisions for which they are chosen, or have their property qualification therein—a provision intended to maintain French Canadian representation in the upper house—but in the case of the other provinces, the law simply requires the members to reside within their province. If a senator becomes bankrupt, if he is absent for two sessions, if he becomes a citizen of another country, or if he is convicted of crime, his seat will be declared vacant.

2.—The House of Commons.

It is in the elected house that political power rests. Its majority makes and unmakes cabinets. No ministry can remain in office without its support and confidence. After the taking of the last census of the population of Canada, the representation was rearranged as follows:

PROVINCE.	MEMBERS.
Ontario.....	82
Quebec.....	65
Nova Scotia.....	16
New Brunswick.....	11
Manitoba.....	15
British Columbia.....	13
Prince Edward Island.....	4
Saskatchewan.....	16
Alberta.....	12
Yukon Territory.....	1
	—
	235

The representation must be readjusted after every census, which is taken every ten years—the last in 1911. The British North America Act provides that the French Canadian Province of Quebec must always have a fixed number of sixty-five members, and each of the other provinces is assigned such a number of members as bears the same proportion to the number of its population as the number sixty-five bears to the population of Quebec as ascertained by the census. British Columbia, under the terms of union, cannot have her representation reduced below six, and under the 1915 amendment to the British North American Act every province is entitled to at least as many members as it has senators. Under the census of 1911, one member has been given for every 30,819 persons in a province—in other words, that is the unit of representation until rearranged in accordance with the next census.

No property qualification is now required from a member of the house of commons, but he must be a

British subject by birth or naturalization (see p. 106). He must not be a person convicted of crime, as the house would in such cases expel him. If he becomes insane, his seat becomes vacant under the law of Parliament. He need not reside in the district for which he is elected to parliament. He receives, and so do senators, twenty-five hundred dollars as an indemnity or allowance if the session exceeds thirty days in length, and he is entitled to a free pass over all railways.

3.—Speaker of the House.

The speaker of the commons is the presiding officer, or chairman, of the house—an office of great dignity and responsibility. He is elected by the members of the commons on the first day of a new parliament, or whenever a vacancy occurs by death or resignation. He is assisted by a deputy-speaker, also elected at the beginning of each new parliament and upon each vacancy. The deputy-speaker presides in the absence of the speaker and when the house sits in committee of the whole, which it does to allow greater freedom of discussion when doing part of its work.

Either French or English may be spoken in debate, and all the laws and records must be in both languages. All the debates are reported by an official body of shorthand writers.*

*The printed debates are popularly called the "Hansard." Hansard was the name of the reporter who for many years made and published the reports of the debates in the Imperial House of Commons, and the English name was adopted in Canada.

4.—Officers of the Houses.

The principal officer in the senate is the clerk, who is appointed by the governor in council. He keeps the records of the senate, and sits at the table during the sittings and takes and reports the numbers on divisions. He also has the title of clerk of the parliaments, and as such is the custodian of the originals of all statutes. The clerk of the house of commons occupies a similar position and performs similar duties in the other house. The senate and the house of commons each have a lawyer to attend to the legal work and advise the speakers and other officers. In the senate he is called the law clerk, and in the house of commons the parliamentary counsel. There are also the assistant clerks and other officers and clerks, the shorthand reporters who report the debates, and the translators, for, as we have seen, all laws, records and documents are in both English and French, and either language may be used in debate.

The serjeant-at-arms is the principal executive officer of the commons. He preserves peace and order in the house under the directions of the speaker and the house, arrests offenders against the privileges of the house, and carries the mace—the emblem of the authority of the house—before the speaker on official occasions when parliament is sitting. He also has charge of the pages, and subordinate officers of the house and the furniture and appointments of the house and the various offices. In addition to a serjeant-at-arms, the senate has also a gentleman usher of the black rod, who is the officer commanded by the governor-general to summon the commons to attend him in the senate chamber at the beginning or end of a session of parliament. A duty he performs with many bows, a curious survival of what are to us the absurd ceremonies of ages long since gone by.

CHAPTER III.

THE DOMINION GOVERNMENT : LEGISLATIVE POWER—*Continued.*

5. *Dominion Franchise.*—6. *How Elections are Held.*—7. *Meeting of Parliament.*—8. *Elections after a General Election.*—9. *Oath of Allegiance.*—10. *Independence of Parliament and Corrupt Practices.*
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5.—Dominion Franchise or Voter's Qualifications.

Previous to 1885, the franchises for the several provincial legislatures was the franchise for the house of commons, but in that year, after a very protracted debate, an electoral franchise act was passed by parliament for the whole Dominion. The franchise was somewhat complicated in its details and very expensive in its machinery, and was abolished in 1898 by the Laurier Liberal Government, which again adopted the provincial franchises (see *below*, pp. 106, 163) for purposes of dominion elections, with the exception of what is now the provinces of Saskatchewan and Alberta and the Yukon Territory. Under the present law manhood suffrage,* qualified by residence and British citizenship, and subject to certain laws as to registration, practically exists in all the provinces. Quebec, Nova Scotia, and Prince Edward Island require a small property or income qualification, but so small, as to practically exclude no one. The judges, returning officers at elections and election clerks are, however, disfranchised in the public interest to keep them free from political partisanship.

* Manhood suffrage is the right of every British subject of full age (over twenty-one years) to exercise the suffrage, *i.e.*, to vote.

In Ontario, Manitoba, British Columbia, Alberta and Saskatchewan women have been given the right to vote on the same terms as men, and in the course of a few years this extension of the franchise will no doubt be universal throughout Canada. In 1917 the Dominion Parliament passed an Election Act which is to continue in force during the war, under which women, being British subjects and having the qualifications as to age, race, and residence required for male voters, who are the wives, widows, mothers, sisters and daughters of any person, male or female, living or dead, who is serving or has served without Canada in any of the military forces, or within or without Canada in any of the naval forces of Canada or Great Britain during the war are to have a right to vote. The female relatives of those who have left any of the forces discredibly are excepted from the privilege and the privilege does not extend to relatives of members of the naval forces engaged within Canada who entered the service after the date of the Act, *i.e.*, 20th September, 1917.

A statute was also passed in 1917 providing for the taking of the votes of British subjects, male or female, of the Canadian Expeditionary Forces, the Royal Canadian Navy, the Canadian Militia on active service, the Royal Naval Canadian Volunteer Reserve, and of British subjects who, while within Canada, entered the British Royal Flying Corps, Royal Naval Air Service, Auxiliary Motor Boat Patrol Service, or, being ordinarily resident in Canada, are on active service in Europe in the naval or military forces of the King or any of the King's allies. An elector is to have a vote in the electoral district in which he or she last continuously resided during the last

four months of the twelve months immediately preceding his enlistment, and, if he cannot specify such a district, then in an electoral district within which he has at any other time resided, or, if because of non-residence or otherwise he cannot specify such a district, then within such electoral district as he may choose.

The returning officers in Canada send a return of the votes cast in their electoral district to the general returning officer appointed for that purpose. The number of votes cast by the soldiers and others are sent by cable to the general returning officer, and he, after adding up the total votes cast in Canada and by the troops, declares who are elected.

Voting by ballot prevails throughout Canada in provincial as well as dominion elections.

6.—How Elections are Held.

General elections are held on the same day throughout the dominion ; exception, however, is made in the case of such large, remote districts as Skeena, West Kootenay and Cariboo, in the province of British Columbia, and Gaspé, Chicoutimi and Saguenay, in the province of Quebec, where the returning officer fixes the day. Under the War Times Elections Act this exception is, however, done away with while the war lasts, except with respect to the Yukon.

When a general election has been decided on at a cabinet meeting, the premier so advises the governor-general and if the latter sees no constitutional objection (see *above*, p. 83), parliament is dissolved by a proclamation in the name of the king, who alone can summon, prorogue, or dissolve parliament. Another proclamation authorizes the issue of the writs of election, or order

to the returning officer in each constituency or district that elects a member, fixing the date of the nomination of candidates and the date when the returning officers are to make their returns. Any twenty-five *electors* may nominate a candidate for the house of commons by signing a paper in the form required by law, and depositing \$200 with the returning officer, who returns the same to the candidate in case of his election or of his obtaining at least one-half of the votes polled in favour of the candidate elected, but otherwise the deposit goes into the public revenues. When there is no opposition to a candidate he is declared duly returned by the returning officer at the close of the time allowed for nominations. In case of an election, it takes place, except in the remote and thinly settled districts mentioned above (see p. 108), on the seventh day after nomination day, or on the following day when the seventh is Sunday or a statutory holiday. The places where the votes are taken are duly advertised under the law, and proper means taken to secure a full and correct poll. All votes are taken by ballot.

In each polling place, except in Prince Edward Island, there is a list of persons qualified to vote at the election, and when the name of a person presenting himself to vote is found therein, he receives a ballot paper from the deputy returning officer, on the back of which the latter has put his initials previously, so that they can be seen when the ballot is folded. On the back of the counterfoil (see form, next page) attached to each ballot there is placed a number corresponding with one placed opposite the voter's name in the poll book. In Prince Edward Island there are no voters' lists. The population is small and rural, and therefore it is easy to identify

the voters. During the war, however, lists are made for Prince Edward Island under the War Times Elections Act.

The following is now the legal form of a ballot paper for the dominion elections :

STUB	COUNTERFOIL	1	WM. R. BROWN of the City of Ottawa, Barrister.	
		2	FRANK HAMON of the City of Ottawa, Artist.	
		3	JOSEPH O'NEIL of the City of Ottawa, Gentleman.	X
		4	JOHN R. SMITH of the City of Ottawa, Merchant.	
STUB				

These ballot papers are kept in a book in each polling division, and contain a *stub* (white perpendicular space shown above) and a *counterfoil* (black perpendicular space shown above). Both the stub and counterfoil are numbered on the back, and can be separated from the ballot paper by a line of perforations between the counterfoil and the stub, and between the counterfoil and the ballot paper. The stub is separated when the voter receives the paper, and its number is compared with that on the counterfoil when the vote is given as below.

The elector then proceeds alone into one of the compartments of the polling place, where he can *secretly* mark his ballot paper. He makes a cross with his black lead pencil within the white space (see ballot marked accordingly) in the division containing the name of the candidate for whom he has decided to vote. In case there are two members to be returned for the district—as in the city of Ottawa, for instance—he makes a mark opposite each of the two names of his chosen candidates. He then folds up the ballot paper so that the initials and stamp on the back, and number on counterfoil, can be seen without opening it. He must hand the paper, so folded, to the returning officer, who examines the initials, stamp, and number on counterfoil, so that he may ascertain if it is the same paper he gave the elector. If it be so, he tears off and destroys the counterfoil, and places the ballot paper in the ballot box provided for that purpose, in the presence of the voter.

At the close of the poll or voting, the poll is open from 9 o'clock in the morning without interruption, until 5 o'clock in the afternoon of election day, the deputy returning officer in each polling place opens the box, counts the ballots, and places his statement of the number of ballot papers and all papers in his possession relating to the election, in the ballot box, which he locks and seals and sends to the chief returning officer. The latter opens all the boxes and sums up the votes for each candidate as given in the statements of his deputies. He declares the candidate having the majority of votes duly elected; but in case of an equality or tie of votes, he gives an additional or casting vote to decide the election. Immediately after the sixth day after the final addition

of votes of the respective candidates, unless before that time he receives notice that there is to be a recount of votes by a judge, he must transmit his return to the clerk of the crown in chancery at Ottawa. The clerk of the crown thereupon publishes the names of the members elect in the *Canada Gazette*, the official paper of the Dominion.

7.—Meeting of Parliament.

Parliament is called together for the “despatch of business” by proclamation issued by the governor-general upon the advice of his council. The crown’s action is guided in this respect by the provision in the constitutional act of 1867 that there must be a session of parliament once at least in every year. In other words, twelve months must not elapse between the close of one session and the beginning of another session of parliament. The duration of a parliament cannot exceed five years altogether.* But the crown may dissolve it at any time during the five years if it is deemed expedient to appeal to the people.

8.—Elections After a General Election.

In the foregoing paragraphs I have given some explanations as to the way a *general election* is conducted. In case a member resigns or dies, or his seat is declared vacant by a court of law (see *below*, p. 113), what is called a by-election is held for the particular constituency that is vacant. The Speaker—or, if there is no Speaker, two members of the House—issue a warrant to the

*In 1916, owing to the war, the imperial parliament, at the request of Canada, extended the term of parliament for one year, *i.e.*, to 7th October, 1917.

clerk of the crown in chancery, a writ of election is issued by the authority of the governor-in-council, and the proceedings with respect to nomination, election, voting by ballot, and certificate of return of successful candidate, are the same in a by-election as in that of a general election.

9.—Oath of Allegiance.

All members elected to the house of commons, as well as senators appointed by the governor-general, are required by the law to take the following oath of allegiance before they can sit in either house of parliament :—

“I, A.B., do swear that I will be faithful and bear true allegiance to his majesty King George V.”

Each new member of the senate and commons signs a book called the roll after taking the oath.

10.—Laws Respecting the Independence of Parliament and Corrupt Practices at Elections.

The laws for the preservation of the independence of parliament and the prevention of corrupt practices at elections are very severe, and all that is necessary to prevent corruption is a strong public opinion to insist upon the enforcement of the law. The acceptance by a member of the house of commons of an office of emolument or profit from the crown vacates his seat. Members of that house, when called to the government as ministers with salaries, vacate their seats and must be re-elected, though if the whole government has not resigned an exchange of offices can take place between ministers. All other salaried officers in the public service and contractors with the government are forbidden to sit in the

house of commons—an exception being made, as in England, of officers in the military service. Since 1874 the house has transferred to the courts its jurisdiction over the trial of controverted or disputed elections, which previously had been considered by committees of the house of commons, exposed to all the insidious influences of political partisanship. The courts in the several provinces are now the tribunals for the trial of all such contested elections ; and the results have been decidedly in the public interests. The laws for the prevention of bribery and corruption are exceedingly severe. The object of the law is to make elections as economical as possible, and diminish corruption. A candidate may be disqualified from sitting in the commons, or voting, or holding any office in the gift of the crown, for seven years, when he is proved personally guilty of bribery, and the voters may be severely punished when corruption is proved against them. The law is excellent if the public will only see that it is enforced.

CHAPTER IV.

THE DOMINION GOVERNMENT : LEGISLATIVE POWER—*Continued.*

11. Methods of Conducting Business and Debate ; Motions, Debate, Adjournment, Divisions, Petitions, Previous Question, Bills, Money Matters, The Budget, Going into Supply, Select Committees.—12. Prorogation.

11.—Methods of Conducting Business and Debate in Parliament.

The methods of business which the houses follow are intended to promote the despatch and efficiency of legislation. Their rules and usages are, in all essential particulars, derived from those of the English parliament. On the day parliament has been summoned by the crown to meet, the governor-general, either in person or by a deputy—if by deputy, generally the chief justice of Canada—proceeds to the upper chamber and there, seated on the throne, the members of the house of commons being also present, reads in the two languages the speech, in which his government sets forth the principal measures which they purpose to present during the session. This speech, which is generally a concise and short document, is the first business considered by the two houses, though in the House of Commons a bill is always introduced as a matter of form to show that the house has power if it wishes to do other business first. As soon as the answer to the address has been passed, which consists of formal thanks for the speech, the

houses proceed to appoint the committees, and commence the regular business of the session. The proceedings commence every day with prayers, taken from the Church of England liturgy, and read by the speakers in English or French according to his nationality. The rules of the two houses do not vary much with respect to the conduct of business.

THE FOLLOWING IS A SUMMARY OF THE LEADING
RULES AND USAGES OF PARLIAMENT:

Motions.—When a member wishes to obtain the opinion of the house on a question, he gives notice of a motion which appears after two days on what is called the order paper, that is a printed list of the matter before the house of commons showing the order in which the several items are to be considered. It must state clearly the nature of the question, and be seconded by another member. When it has been proposed, or in other words read, by the speaker from the chair, it is open to amendment and debate. An amendment is also a motion, but no notice need be given of it. Only two amendments to a motion can be under consideration at one time, but if one is rejected by the house another can be proposed, provided it is not the same as that on which the house has already expressed its opinion.

Debate.—The rules with respect to debate are necessarily strict. No member can speak except to a motion which is in regular form before the house—that is to say, read by the speaker from the chair, when it becomes a “question” for debate. A reply is allowed to the member who has proposed a distinct motion or question, but not to one who has made an amendment.

When a new question has been proposed, as "that this house adjourn," "the previous question," or an amendment, members are allowed to speak again, as the rule only applies strictly to the prevention of more than one speech to each separate question proposed. Members sit with their hats on or off as they may please, but the moment they rise to speak they must uncover and address themselves to the chair. If any member should inadvertently say "Gentlemen," instead of "Mr. Speaker," he will be called to order, though, in the senate a speaker addresses himself to "Honourable Gentlemen." Whilst a member is speaking, no one is allowed to interrupt him, except with his own consent, or if he has infringed a point of order, and no one should pass between him and the chair, because he is supposed to be addressing himself to the speaker. Any offensive allusions against the house, or any member thereof, are not permissible. No member must be referred to by name, but every one disappears for the time being under the title of "honourable member for Toronto," or whatever the name of his constituency may be, and this rule, like so many others, has for its objects the repression of personalities, and the temperate, calm conduct of debate. No reflection must be cast on the upper house. Many other rules exist, having for their object the keeping of debate within moderate bounds, but it is not possible to mention them in a brief sketch of this character.

Adjournment of House or Debate.—The motion, "*That the house do no adjourn*" is always in order, and if carried, sets aside the question under discussion. The motion "*That the debate be adjourned*" is also in order

when a "question" is under debate, and if it is carried the "question" goes over until another day.

But if a motion for the adjournment of the house or of the debate is lost, then the debate on the question continues as if the former had never been made. These motions can be renewed when a new question or motion is proposed at the same sitting of the house.

Putting the Question and Dividing the House.—When the debate on a motion or question is at an end, the speaker calls for the opinion of the house. He "puts" the question in this way: he will first read the motion and then say:

"Is it the pleasure of the house to adopt the motion (or amendment as the case may be)?" Those who are in favour of the motion (or amendment) will say, "yea" ("content" in the senate); those who are of the contrary opinion will say "nay" ("non-content" in the senate). Members then call out "yea" or "nay" ("content" or "non-content" in the senate), and the speaker will decide from those voices—"I think that the 'yeas' ('contents') have it," or "I think that the 'nays' ('non-contents') have it." Or, if he is in doubt, he will say "I cannot decide." Then a division takes place. Members are called in by the serjeant-at-arms and messengers, and when they are in their places the speaker again reads the question and says:

"Those who are in favour of the motion will stand up."

The assistant clerk then calls the name of each member as he stands up in his place, and it is recorded by the

chief clerk at the table on a printed list before him. When the "yeas" are all recorded in this way, the speaker calls upon the "nays" to rise, and when they are all duly entered, the chief clerk counts up the votes on both sides, and calls out the total number. The speaker then declares the question "lost" or "carried," according as the house has decided by the number of votes recorded.

If there is a main motion or first question, an amendment thereto, or second question, and also an amendment to that amendment, or third question, the speaker takes the opinion of the house, first on the amendment to the amendment, or third question; second, if that be lost, then on the amendment, or second question, and third, if that be lost, on the main motion or first question proposed to the house.

Petitions.—Every person has a right to petition parliament in respectful language on any question which comes within the right of parliament to deal with. Such petitions are presented by a member in his place, and must be signed by the person petitioning on the same sheet containing the prayer of the petition. If there are more than three petitioners then the names of three must appear on the sheet having the prayer. Every signature must be written by the person applying to parliament, but the petition itself may be printed in French or English. No appendices or papers can be attached thereto; no words can be rubbed out, or written between the lines.

Every petition to the two houses should commence with this form :

"To the honourable the Senate (or House of Commons, as the case may be) in parliament assembled.

“The petition of the undersigned humbly sheweth.”

Then follows the nature of the petition. The conclusion should be a prayer, or a statement shortly summing up the previous part in these words :

“Wherefore your petitioners humbly pray that your honourable house will (here sum up object of petition).” “And your petitioners as in duty bound will ever pray.” Then come the signatures.

In case a petitioner requires a grant of money from the government he should send a petition, not to the house, which cannot receive such petitions, but

“To His Excellency, the Governor-General in council,” etc.

In other respects the memorial or petition should follow the foregoing form.

It should be sent to the member for the electoral district interested, to forward to “The honourable the Secretary of State for Canada, Ottawa,” or the petitioner can send it direct himself to the minister in question.

Petitions, however, framed in general terms, and not asking a money grant in *direct* terms, can be sent to the two houses through a member.

Previous Question.—This proceeding is an ingenious, though to many persons a perplexing, method of preventing an amendment being moved to a motion, and of coming to or avoiding a direct vote on that motion. It is proposed in the form, “That the question (*i.e.*, the motion under consideration) be *now* put.” The debate then continues as before on the original or main question, and when it is concluded a vote is taken on the “previous question,” as just stated. If the “previous question” is decided in the affirmative, a vote must be taken

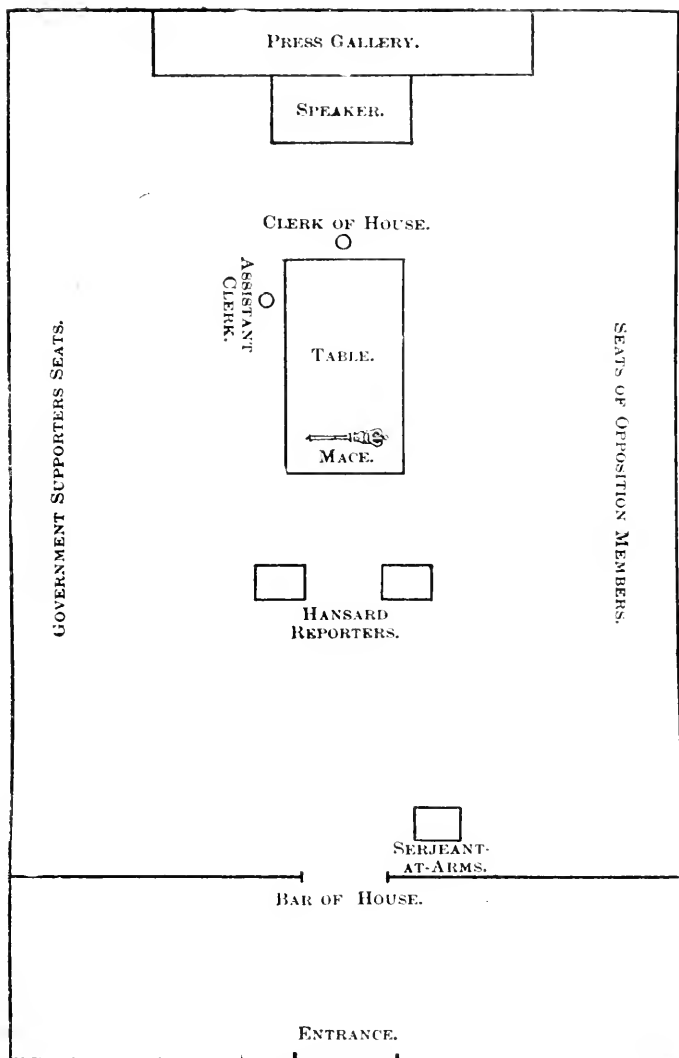


DIAGRAM OF HOUSE OF COMMONS.

immediately on the original question. If the "previous question" is decided in the negative, no vote can be taken on the original question, which disappears for the time being, since the house has decided by its vote that the question shall *not now* be put. The important distinction between the "previous question" in the Canadian parliament and the United States congress is that in the latter the debate is closed when it is moved, while in the former body discussion still continues on the question at issue.

Difficulty was experienced several times in the Canadian parliament, as it has also been experienced in other legislative bodies, by a minority obstructing a measure by continuing to make long speeches and by moving obstructive notices for the purpose of delay. To overcome this a rule was adopted in 1913, usually called the "closure" from the name given to the French procedure designed for a similar purpose. Notice having been given at the previous sitting, a minister may move that the debate upon the subject under consideration be not further adjourned or that the further consideration of any resolution, clause, etc., shall be the first business. This must be voted on without debate and if carried no member can speak more than once or for more than twenty minutes, and if the debate is not concluded by two o'clock in the morning, the debate is then closed and a vote is taken. This procedure has several times been used effectively to secure the passage of important measures, but it is not entirely satisfactory and would not prevent obstruction when the House was considering money votes, when a debate may be had on each item.

Bills.—A mere resolution of the house only binds itself, and when it is necessary to make a law affecting the people of Canada, a bill must be introduced, and passed through several stages in the two chambers. Then it receives the assent of the king, through the governor-general, and becomes a statute or legal enactment. Bills are either *public*—that is to say, dealing with matters of a public or general nature; or *private*—that is to say, relating to the affairs of corporations, companies, or individuals. Private bills, when presented, are also rigidly scrutinized by select committees; and these committees consequently are clothed with a judicial character in cases of controversy. All bills, public and private, must be read three times in each house, as well as considered in committee of the whole. The second reading is the stage when the principle or policy or necessity of the measure is discussed in the case of public bills—though not necessarily so as respects private bills—while the committee of the whole allows a free and full discussion of the details, without a limitation of the number of speeches each member may make. When a bill has passed the commons it is sent to the senate for its agreement, and as soon as that body has also subjected it to the stages mentioned above, it is ready for the assent of the crown. In case of amendments by one house they must be agreed to by the other. If there is no such agreement, the bill drops for the session. When it is finally passed by both houses it is assented to by the governor-general.

Money Matters.—The most important duties of the house are in connection with money matters. Here the constitution and the rules of parliament have imposed

many guards and checks upon hasty expenditures or the imposition of taxes without due notice and consideration. By the British North America Act, any measures for appropriating any part of the public revenue, or for imposing any tax or impost, must originate in the house of commons. The house itself is restrained by the same act. It cannot adopt or pass "any vote, resolution, address or bill for the appropriation of any part of the public revenue, or of any tax or impost, to any purpose that has not been first recommended to the house by a message of the governor-general." It follows from what precedes that no private member is permitted to propose a tax upon the people, or to introduce a bill providing for a grant of money; such measures must be commenced by ministers of the crown.

The government brings down a message from his excellency with the estimates of the sums required for the public service for the next financial year, which commences on the 1st of April and ends on the next 31st March.

These estimates contain the votes arranged in the order of the various public services. For instance—expenses of departments of government, militia, penitentiaries administration of justice, immigration, Indians, public works, railways and canals, quarantine and the numerous other subjects for which parliament votes annually large sums of the public money. These estimates contain the amounts for the current and the previous year in parallel columns, for purposes of comparison, and it is the duty of the minister responsible for the particular item, to give full explanations on the subject when they are demanded by the house. Every

vote is carefully considered by the house of commons, sitting in what is called committee of supply, and a very considerable part of the session is occupied by the debates on this important matter.

The rules for proceeding in the committee of supply or of ways and means, are the same as those observed in other committees of the whole house. Members are not confined to one speech, but may address the committee as often as they please on a particular resolution. The chairman decides all questions of order. After the budget (see next page) is formally before the house, and the leading members on both sides have made their speeches on the commercial and financial state of the country, the committee of supply meets. Every item is very carefully scrutinized, and the fullest explanations are demanded from the members of the government, who, on such occasions, have to perform the most difficult and wearisome part of their legislative duties. When the committee of supply has finished its labours, and all the money votes have been adopted by the house, the house sits as a committee of ways and means to provide for the grants shown to be necessary; and then a bill, called the supply or appropriation bill, is introduced by the government, which becomes the statute actually authorizing the expenditure. When this important bill has passed the usual stages, it is sent up to the senate, where, however, it cannot be altered, but must be either passed or rejected. There is no instance of a supply bill being rejected since confederation. On its return to the commons it is carried up by the speaker to the senate chamber. When His Excellency has assented to the bills passed by parliament during the

session (always in the king's name), the speaker of the commons addresses His Excellency, and asks for an assent to the supply bill, and this assent is granted in this formula: "In His Majesty's name, His Excellency the Governor-General thanks His loyal subjects, accepts their benevolence, and assents to this bill."

The Budget.—When the estimates have been brought in it is the duty of the finance minister to make his financial statement, or, in parliamentary phrase, present the "budget." This familiar word is derived from the French, and means "a bag"; in making his statement, the finance minister *opens* the money bag of the people, as it were, and shows them its contents, and what is most important—*how best* to fill it. He will on this occasion review the expenditure of the past, and estimate that for the following year, give his opinion on the financial situation, and lay before the house a statement of any scheme of taxation that the government may have decided on, or of any changes that may be deemed necessary in the existing tariff.

Questions and Motions on going into Supply.—From the beginning of the session, members ask questions of the government on all sorts of public questions and on official matters affecting their friends or constituents; they also make motions for papers relating to public matters in which they or their friends are interested. It is always open to a member to bring up an important question immediately—except, of course, when there is a subject under consideration—and debate it at any length on a motion for the adjournment of the house. Then, too, as soon as a motion is made for the house to go into committee of supply, except Thursdays or

Fridays, a member may make a motion on any question he wishes, unless it refers to the votes to be discussed in supply. While in the case of all bills and other motions, amendments must be relevant to the question, members can here bring up any subject they please. This is a practice which has its historical origin in the fact that in old times, when the English parliamentary system was developing itself, the people's representatives laid down the principle that the king must redress their grievances before they would grant him the money he asked for. Those times have long since passed away, and the people now fully control all taxes and expenditures, but the crown still asks for money through the ministers, and the commons grants it in due form. It is no longer necessary to threaten the crown with a refusal of supplies unless the people's grievances are redressed ; but still they can refuse it to a government in which they have no confidence, should the necessity arise.

Select Committees.—Much of the business of the two houses is first discussed and deliberately considered in small bodies of members, varying in number, and appointed by the house. Bills, public and private, are sent to these committees, to report on. In these committees no bill or question can be considered unless it is referred to them by the house. Members can speak as often as they like, but otherwise the rules of debate of the house prevail. Questions are put as in the house, and the chairman, who is always elected at the first meeting, only votes in case of a tie, or equality of votes. In private bill committees, however, the chairman can vote as a member, and can give a casting vote when there is a tie. All committees must report to the

house the result of their conclusions on a bill or other subject. Witnesses can be examined under oath when the house authorizes it.

12.—Prorogation.

When the business of parliament is done, the governor-general comes down and assents to the bills as stated above. He then reads a speech shortly reviewing the business of the session, and when he has finished, the speaker of the senate rises and says :

“It is His Excellency the Governor-General’s will and pleasure that this parliament be prorogued until (*date*), to be then here holden ; and this parliament is accordingly prorogued until (*date*).”

The commons then retire, and the session is at end.

If parliament is not called together “for the despatch of business” by the date mentioned in the foregoing speech—a very unlikely event under ordinary circumstances—a royal proclamation is issued from time to time in the *Canada Gazette*, further proroguing the legislature. The effect of a prorogation is to put an end to all bills and other unfinished business in whatever state they are in at the time, and they must be commenced anew next session, as if they had never been begun.

CHAPTER V.

THE DOMINION GOVERNMENT: LEGISLATIVE POWER—*Continued.*

13. Distribution of Legislative Powers under a Federal Union.—

14. Subjects of Dominion Legislation.

13.—Distribution of Legislative Powers.

An essential characteristic of a federal union is the division or distribution of legislative powers between the government of the union as a whole, and the several countries that compose that union. Accordingly, the British North America Act gives to the dominion or central government at Ottawa the control of certain matters of a general or national character, and to the provincial governments the control of certain matters of a provincial or local importance. When we come to consider the nature of the provincial governments, I shall set forth the subjects under their control. At present we have under consideration the duties and powers of the dominion government.

14.—Subjects of Dominion Legislation.

The 91st clause of the constitution gives to the parliament of Canada, the sole or exclusive right of making laws on the following subjects.

For the peace, order and good government of Canada in all matters not assigned exclusively to the provincial legislatures, and for greater certainty, but not so as to

restrict the generality of the foregoing terms to the following classes of subjects :

1. The public debt and property.
2. The regulation of trade and commerce.
3. The raising of money by any mode or system of taxation.
4. The borrowing of money on the public credit.
5. Postal service.
6. The census and statistics.
7. Militia, military and naval service and defence.
8. The fixing and providing for the salaries and allowances of civil and other officers of the government of Canada.
9. Beacons, buoys, lighthouses and Sable Island.
10. Navigation and shipping.
11. Quarantine and the establishment and maintenance of marine hospitals.
12. Sea-coast and inland fisheries.
13. Ferries between a province and a British or foreign country, or between two provinces.
14. Currency and coinage.
15. Banking, incorporation of banks, and the issue of paper money.
16. Savings-banks.
17. Weights and measures.
18. Bills of exchange and promissory notes.
19. Interest.
20. Legal tender.
21. Bankruptcy and insolvency.
22. Patents of invention and discovery.
23. Copyrights.
24. Indians and lands reserved for the Indians.
25. Naturalization and aliens.
26. Marriage and divorce. [But the provincial governments control the solemnization or celebration of marriage, *see below*, p. 171].

27. The criminal law, except the constitution of the courts of criminal jurisdiction, but including the procedure in criminal matters [*see below*, p. 177].

28. The establishment, maintenance, and management of penitentiaries.

29. Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this act assigned exclusively to the legislatures of the provinces.

The subjects just mentioned in sub-section 29 are (*see below*, p. 171) lines of steam or other ships, railways, canals, telegraphs and other works and undertakings extending beyond the limits of a province, or declared to be "for the general advantage of Canada," or of more than one province, by the Canadian parliament. A steamer running from Montreal to Pictou, in Nova Scotia, a railway between Nova Scotia and New Brunswick, a bridge over the Ottawa river, which divides the two provinces of Ontario and Quebec, are among the works that come under this clause.

In order to lessen doubts, the constitution also provides that any of the foregoing subjects shall not come within the class of matters of a local or private character over which the provincial governments have sole legislative power. In the case of other matters not coming within the class of subjects belonging to the provinces, the parliament of Canada has alone power to make laws for the peace, order and good government of the Dominion.

In short, the respective powers of the parliament of the Dominion and the legislatures of the provinces are stated in express terms in the constitution; any subject that does not fall within the powers of the provincial

governments belongs to the Dominion. This is intended to prevent disputes, as far as possible, as respects the powers of the Dominion and Provincial governments.

The subject of education belongs exclusively to the provinces, but in case certain rights enjoyed by religious minorities in the provinces are prejudicially affected by the laws of those provinces, the parliament of Canada may interpose and pass such legislation as will remedy any act of injustice that a provincial government may refuse to remedy. This is, however, a subject which will be discussed on a later page (see *below*, p. 167).

The Dominion and Provincial governments also exercise certain rights in common. The Dominion Parliament may make laws on the subjects of agriculture and immigration for any and all of the provinces, and each provincial legislature may do the same for the province over which it has jurisdiction, provided that the provincial act is not in conflict with a dominion act. Both these authorities are equally interested in the promotion of matters so deeply affecting the development of the natural resources of all sections. The provinces, excepting Manitoba, Saskatchewan and Alberta, have the control of their lands and mines, while the Dominion is interested in the opening up of the vast territorial area which it has in the western prairies and in the Northwest.

The dominion government has, by the constitution, a general power of vetoing or disallowing any act of a legislature within one year after its receipt from the government of a province. The conditions under which this important power should be exercised are explained on another page (see *below*, p. 174).

The constitution, as I have shown, has been framed with the object of setting forth, as clearly as possible, the powers given to the dominion and provincial governments, but experience shows that no written law, however carefully framed, can prevent differences of opinion as to its meaning.

In the following section I shall explain the methods provided by the constitution for the removing of doubts as to the meaning of its provisions, preventing conflicts between the dominion and provincial authorities, and at the same time doing justice, as far as possible, in all cases where rights are affected.

CHAPTER VI.

THE DOMINION GOVERNMENT : JUDICIAL POWER.

1. *Methods of Interpreting the Written Constitution.*—2. *Supreme Court.*—3. *Exchequer Court.*—4. *Admiralty Court.*—5. *Judicial Tenure of Office.*
-

1.—Methods of Interpreting or Explaining the Written Constitution.

The federal union of Canada derives its existence from the British North America Act. This statute, like all statutes or laws, must be construed or explained by the judges who are the authorized interpreters of the law.

The judges can and do constantly decide on the constitutionality of statutes passed by the Canadian parliament and the provincial legislatures. The judges of the provinces are appointed and paid by the dominion government, but the constitution, maintenance and organization of their courts are placed under the provincial governments. The judges decide on cases that arise under the laws governing their respective provinces. Such cases frequently relate to the constitutional rights of the Dominion and of a province. The decision of the provincial judges is not final, for the constitution has provided for the establishment of a supreme court of the Dominion, to which appeals can be taken from the courts of the provinces.

2.—The Supreme Court of Canada.

In 1875 an act was passed providing for the establishment of the supreme court of Canada. But while this court is a general court of appeal for Canada the existing right of appeal to the judicial committee of the privy council has been left. Nor is it a final court of appeal for Canada, since the judicial committee of the privy council entertains appeals from its judgments (see *above*, p. 72). The supreme court consists of a chief justice and five "puisne* judges," two of whom, at least, must be appointed from the bench or bar of the province of Quebec—a provision intended to give the court the assistance of men specially acquainted with the law of that province, the foundations of which came from France while the law in all the other provinces is based upon the English law. Under the conditions set forth in the act, an appeal can be taken to this court from the highest court of final resort in a province in both civil and criminal cases. The decisions of the superior courts of the provinces in cases of controverted elections may also be reviewed by the supreme court. In Quebec cases an appeal can only be made from the court of king's bench or from the superior court in review (see p. 135); and the question at issue must involve the value of at least two thousand dollars, unless it affects the validity of a statute, the title to land, and certain other specified matters. Special provisions have been made for referring constitutional questions to the court, in order that its opinion may be obtained for guidance in

* "Puisne" means younger, and those judges who were under the rank of chief justices were called "puisne judges."

doubtful matters. This court is intended to be, as far as practicable, a court for the settlement of controversies that arise in the working of the constitutional system of Canada. The judicial committee of the privy council entertains appeals from the supreme court only when the case is of gravity, involving questions of public interest or some important point of law, or is otherwise of a very substantial character.

3.—The Exchequer Court of Canada.

Another court having authority throughout the Dominion is the exchequer court. The name of this court carries us back to early English times. The king's treasury was in charge of the lord high treasurer. As the king's revenues increased in amount, and disputes grew up in connection with their collection and management, it was necessary to divide his duties between two departments, one administrative and the other judicial. The chancellor of the exchequer—the finance minister—still one of the most important members of the cabinet of England was charged with the administrative work, while the judicial work affecting the revenue was referred to the exchequer court, which derived its name from a *chequered* cloth which used to cover the table at which the accounts were considered. The duties of the court grew in importance, and were extended to all suits or actions in which the crown was interested. The exchequer court of Canada has authority to hear and decide those cases in which the revenues or property, or other interests of the crown are involved. It hears claims against the dominion government when any person suffers injury

from the construction or operation of a public work, and can award damages to such persons. It also has jurisdiction in patent and trade mark cases.

4.—Admiralty Court of Canada.

The dominion government has also, under the authority of an imperial statute, conferred on the exchequer court the powers of an admiralty court to hear and determine all civil questions relating to contracts or claims in respect of necessities and wages, and other matters arising out of navigation, shipping, trade and commerce, in Canadian waters, tidal and non-tidal. The governor-general may appoint a judge of a superior court, or of a county court, or any barrister of not less than seven years standing, to be a "local judge in admiralty" of the exchequer court in such districts as may be necessary for the purposes of the act. The provinces of Quebec, Nova Scotia, New Brunswick, Prince Edward Island and British Columbia each constitute a district. The Yukon Territory is also a district and has its registry at Dawson City. The district for Ontario is called the Toronto admiralty district.

5.—Judicial Tenure of Office.

The judges of the supreme and exchequer courts, and any other dominion courts, hereafter established, hold office, like all the judges of the superior courts in the provinces, during good behaviour, and can only be removed on an address passed by the senate and house of commons to the governor-general, after full investigation into any charges that may be made against them. In this way the judiciary is practically independent of

political or popular caprice or passion, and able to discharge their high functions with fidelity and impartiality. The judges of these supreme and exchequer courts are appointed from the judges of the superior courts of the provinces or from barristers or advocates of at least ten years' standing at the bar.

CHAPTER VII.

THE DOMINION GOVERNMENT: REVENUE AND EXPENDITURE.

1. *Duties of Customs and Excise.*—2. *Cost of Government.*—
 3. *Consolidated Revenue Fund.*—4. *Canadian Currency.*
-

1.—Duties of Customs and Excise.

I have now given my readers a summary of the principal duties of the executive, legislative and judicial departments of the Canadian government. The question will now occur to every one who has followed me so far, How does this government meet its expenses? The answer is, by a system of taxation, direct and indirect. The principal part of the revenue is derived from the customs and is not *direct* taxation—that is to say, it is not a certain amount taxed, as in cities and other municipal divisions, on everyone's property, income or business and collected directly from the people charged. It is *indirect* taxation—that is to say, imposed on the goods brought into the country by merchants and traders, who pay the duties and add such charges to the price of the goods so that the tax is paid indirectly by those who purchase the goods. These taxes are called "customs duties," from an old Norman-French word, *coutume*, meaning a *customary* or usual tax of the country, which has come to be generally applied to any duty on foreign goods. Competition among merchants tends to keep prices to the lowest point compatible with the profit which every merchant must make. Customs duties may

be either *ad valorem* or *specific*; the first meaning the levying of a certain percentage of duty on the marketable value (*ad valorem*) of the goods at the original place of shipment, as sworn to by the owner or importer, and verified by the customs appraisers or valuers; "specific" meaning a definite or fixed duty collected on goods of a particular kind, or upon a specified quantity of a commodity, entered at the custom-house. In addition to the duties imposed on goods brought or imported from other countries, like spirits, tobacco, woollens, cottons, silks, hardware, furniture, pianos and the countless articles purchased by the people which make up the great proportion of dominion taxation, there is a large sum collected directly from persons engaged in the manufacture of beer, whiskey, tobacco and cigars, known as "excise duties"—the word excise coming from an old French word meaning an assessment or tax. For twelve months to 31st March, 1916, the duties collected on imports used in the country were \$98,649,409.48 altogether; the amount of excise duties was \$22,428,491.58; other revenues, from the sale of public lands, and other works, post office and other sources, amounted to \$51,069,937.21. The total revenue consequently in that year was \$172,147,838.27, mostly from customs and excise duties. These figures show the relative importance of the principal sources of revenue of the country.

2.—Cost of Dominion Government.

These taxes and revenues are necessary to meet :

1. The charge on the public debt which was on the 31st March, 1916, \$936,987,802.42. That is, however, the gross debt, and from which are generally deducted

certain assets or interest-bearing investments, loans, cash and banking accounts, which bring the net debt down to \$615,156,171.02 at the above date. The debt has been principally created by the construction of public works, canals and railways; subsidies to railways, assumption of provincial debts under the terms of confederation, and lately from war expenditure.

2. Legislation, senate and house of commons, franchise act, election expenses, etc.

3. Civil government, or salaries of governor-general, lieutenant-governors, the civil service, Northwest government, etc.

4. Public works, including buildings of all kinds, piers and harbours, experimental farms, etc.

5. Railways and canals.

6. Administration of justice, mounted police, light-house and coast service, militia and defence, immigration and quarantine, geological survey, fisheries, Indians, ocean and river steam service, penitentiaries, mail subsidies, post office, and a great variety of other services necessary for the government of the Dominion.

The total expenditure for the year ending 31st March, 1917, was \$271,015,545.73, including \$50,000,000 spent for the war, as against \$13,486,091 in 1868, in the infancy of the development of the confederation and before the construction of public works of national importance.

3.—The Consolidated Fund of Canada.

All taxes and other revenues of Canada are paid into the treasury in accordance with the law, and form what is known as "the consolidated fund of Canada," out of

which are paid all the charges and expenses incident to the collection and management of this fund, and all the expenses of government. These expenses are annually voted by parliament in the mode explained above (see p. 124).

While certain sums are authorized annually by the appropriation acts—which comprise the annual grants voted every session in supply—other payments are made under the sanction of statutes. These statutes, which are permanent and can only be repealed or amended by another act of parliament, provide for the salaries of the governor-general, lieutenant-governors, ministers of the crown, judges, and other high functionaries, whose compensation, it is agreed, should not depend on annual votes, though it is always competent for any member to introduce a bill to reduce such expenditure which would become law if the two houses agreed to pass it.

The restrictions in connection with the payment of money out of the treasury and the thorough system of audit by the auditor-general, who can only be removed on an address of the senate and house of commons to the governor-general, and is therefore independent, has the effect of preventing public expenditure not authorized by parliament. Money is borrowed in large amounts from time to time by the government, but only on the terms approved by parliament.

4.—The Currency of Canada.

The treasury issues notes to the value of \$1, \$2, \$4, \$50, \$100, \$500, \$1,000 and \$5,000. Such Dominion notes may be issued and outstanding at any time to any

amount, and are legal tender, that is when they are tendered in payment of a debt they cannot be refused, but the Dominion government is required to hold as security for the redemption of them up to and including \$30,000,000, an amount equal to not less than 25 per cent. of the amount of the notes issued and outstanding, in gold or in gold and securities of Canada, guaranteed by the government of the United Kingdom. The amount in gold to be in no case less than 15 per cent. With regard to notes issued in excess of \$30,000,000 the government must hold an amount in gold equal to such excess.

The banks of Canada may also issue notes—five dollars being the value of the lowest—the payment of which is secured, as far as possible, by making the payment of the notes a first charge on the assets of a bank, and by other provisions of a well devised general banking act intended to guard the monetary interests of the public. The government alone has power to issue notes of \$4, \$2, \$1. In 1901 parliament made provision for the establishment of an Ottawa branch of the royal mint. This is now in operation, and all silver and copper coins put into circulation here are “minted” in Canada. Besides silver and copper, a gold “sovereign” is also minted here, of the same value and appearance as the British “sovereign,” but distinguished from it by a small “C” on the reverse side. The gold eagle of the United States is legal tender for \$10, and the British sovereign for \$4.86 $\frac{2}{3}$. The larger notes of \$1,000 and \$5,000 issued by the government, are principally held by chartered banks as part of their cash reserve, and for purposes of settlement between banks.

CHAPTER VIII.

THE DOMINION GOVERNMENT : MILITIA AND DEFENCE.

The British North America Act places under the control of the dominion government the military and naval forces and the defence of Canada. The command-in-chief of the land and naval forces of Canada, however, continues to be vested in the king. A department of the dominion government, called the department of militia and defence (see *above*, p. 87), has the control and management of the militia. English troops have been removed from all places in Canada. On the Atlantic coast, Halifax is a strongly fortified military post and a naval station. On the Pacific side, Esquimalt, on the island of Vancouver, is also fortified, and a naval station.

The withdrawal of English troops from Canada has necessarily thrown large responsibilities upon the Canadian government for the protection of a confederation extending over so immense a territory between two oceans. Canada has attempted to fulfil her obligations in this respect by the expenditure of a large sum of money for the drill, instruction and arming of a militia drawn from the great body of the people. In this way a spirit of self-reliance has been stimulated from one end of Canada to the other, and on more than one emergency, the national forces have proved their capacity to secure peace and order and to assist the empire; and the militia formed the basis and provided the organization for raising the troops sent by Canada to the support of the empire in the present war (1917).

By the law of Canada the militia consists of all British subjects, male inhabitants of Canada of the age of eighteen years or upwards and under sixty, not exempted or disqualified by law. All capable of bearing arms, may be called on in case of a "levee en masse."

The first class comprises those aged eighteen or upwards and under thirty, being unmarried or widowers without children.

The second class comprises those between the ages of thirty and forty-five, being unmarried or widowers without children.

The third class comprises those between eighteen and forty-five, being married or widowers with children.

The fourth class comprises those between forty-five and sixty.

And those liable to serve are to be called upon in the foregoing order.

The following persons are exempt from enrolment and actual service at any time:—Members of the privy council for Canada, judges, members of executive councils of provinces, deputy ministers, clergy, telegraph clerks in actual employment, revenue clerks, wardens of prisons, etc., members of naval militia, members of police and fire brigades, professors and teachers in religious orders, disabled persons, only sons of widows, pilots during the season of navigation, persons who are adverse to fighting on religious grounds. To obtain exemption, a solemn declaration must be filed with the commanding officer one month before claiming exemption.

The period of service in the active militia is three years.

The Dominion is divided into military districts, in each of which a permanent military staff is maintained, under command of a colonel or lieut.-colonel. The permanent force and schools of instruction consist of royal Canadian dragoons, royal Canadian artillery, garrison artillery and a royal regiment of Canadian infantry. The total strength of these permanent corps is limited by law to two thousand men.

The royal military college at Kingston, which is under the control of the militia department, was founded in 1875, and has proved a very successful institution. Of the total number of cadets who have graduated, a large number have commissions in the imperial army.

Provision is now made for pensions to the militia force, and to the widows and children of officers.

The governor-in-council appoints a militia council to advise the minister in all matters referred to it by the minister. The militia may be called out by the civil authorities, when there is riot or danger of rioting beyond the powers of the civil authorities to suppress.

Upon the outbreak of the great European war, it was at once decided to send Canadian troops to join with those of the motherland, and other portions of the British Empire in the fight for justice, freedom and civilization. Within six weeks, thirty thousand trained and equipped men were ready to start. A special session of parliament was called which passed statutes giving the government the necessary extraordinary powers and voted fifty millions of dollars for war purposes. The raising of an additional thirty thousand men was authorized on the seventh of November, 1914,

increased to 150,000 in the following July, to 250,000 in October, 1915, and on the twelfth of January, 1916, to 500,000.

In three and a half months over 100,000 men were enlisted. As the war proceeded, the number of Canadian divisions was increased to four and the number voluntarily enlisting so diminished, that it did not seem probable that the last 100,000 of the half-million men required would be obtained. The government thereupon introduced into parliament a bill to authorize the raising of one hundred thousand men by conscription, which, in spite of very strong opposition, became law. Under this law, male British subjects resident in Canada, were divided into six classes according to age, whether married or not, and whether widowers with children. Class one, for instance, consisting of those unmarried, married, or widowers without children, not less than twenty years of age and not born before 1883. These classes were to be called out in order, as required. As each class is called out, all those coming within its limits must report, but any one may claim exemption for ill health or infirmity, because he is of more value pursuing his present occupation, that serious hardship would ensue, because of the man's financial, business or domestic obligations, or because it is in the public interest, that his education or training should not be interrupted. Certain persons, the clergy and persons who came into Canada with a promise of exemption from military service, such as the Mennonites, for instance, are specially exempted from the operation of the law. Special tribunals are provided for dealing with applications for exemption.

CHAPTER IX.

THE INDIANS.

Under the British North America Act the dominion government has sole control over the Indians and lands reserved for Indians in the provinces and territories of the Dominion. One of the departments of the government of Canada is that of Indian affairs. It has the management and charge of all matters relating to the Indians. The minister of the interior (see *above*, p. 87) fills the position of superintendent-general of Indian affairs, and has the assistance of a deputy superintendent-general and a number of other officers to manage the business of the department. In all the provinces and territories there are bands or remnants of the old tribes or "Nations" that once inhabited British North America, who live on lands specially reserved for their use and benefit. The law carefully guards their interests, and all property held for them can only be alienated or leased by their own consent, and then the proceeds are invested for their sole advantage. No one can buy or otherwise acquire from Indians any grain or other produce grown upon any reserve in the Provinces of Manitoba, Saskatchewan or Alberta, or the territories, without the approval of the Indian department. The law makes provision for the "enfranchisement" of the Indians; that is, the conferring upon them the rights and privileges of free citizens, whenever they come up to the prescribed qualifications. Indians in the old provinces can vote at dominion and provincial elections on the conditions laid

down in the statutes on the subject, but in the territories and Manitoba they have not yet reached that degree of civilization which would enable them to exercise the rights of white men. In 1916 there were about 105,561 Indians in Canada, and about 3,296 Eskimos; in British Columbia, 25,737; in Alberta and Saskatchewan, 18,644. Manitoba has 11,935; Ontario, 24,305; Quebec, 13,348; the maritime provinces together about 4,295; and the Yukon and the Northwest Territories, 5,297. They are the wards of the Canadian government, which has always exercised a parental care over them. Before lands were laid out for settlement the Indian titles were extinguished by treaties of purchase, conducted between the representative of the Dominion and the councils of the several tribes.* The Indians live on "reserves" set apart for them; industrial farms and other schools are provided by the government with the creditable hope of making them useful members of the community. Of late years the experiment has been made of educating Indian boys and girls and starting the young married couples on individual farms, and this plan has had admirable results. Agents live on the reserves, and inspectors visit the agencies from time to time to see that the interests of the Indians are protected in accordance with the general policy of the government. The sale of spirituous liquors is expressly forbidden to the Indian population, and severe punishment is provided by the law for those who evade this wise regulation.

* In British Columbia the Indians maintain that their title was never purchased or extinguished, and now claim an immense sum as compensation.

During the present war over 1,200 Indians have enlisted in the Canadian forces, including several descendants of Captain Brant, the famous Indian chief, who rendered such valuable services to the British in 1776. His great grandson, Lieutenant Cameron D. Brant, was killed at the battle of Langemarck, and two lineal descendants were severely injured at Ypres. The Indian women have knitted socks and mufflers. And, in addition, the Indians have subscribed large sums to the Patriotic and other funds. For instance, in 1915, among other smaller amounts, the Dokis Indians in Ontario, the White Bear band in Saskatchewan, and the Metlakatla Indians in British Columbia, each gave a thousand dollars. So that it cannot be said that Canada has been altogether unsuccessful in dealing with the very difficult question of the proper way to treat her Indian people.

FOURTH PART

THE PROVINCIAL GOVERNMENTS

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CHAPTER I.

EXECUTIVE POWER IN THE PROVINCES.

1. *Introduction.*—2. *Lieutenant-Governor.*—3. *Executive or Advisory Council.*—4. *List of Executive Councils in the Provinces.*—5.—*Provincial Arms.*—6. *Flags of Lieutenant-Governors.*
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I.—Introduction.

In each province there is a very complete system of local self-government, administered under the authority of the British North America Act, by means of the following machinery :

A lieutenant-governor appointed by the governor-general in council ;

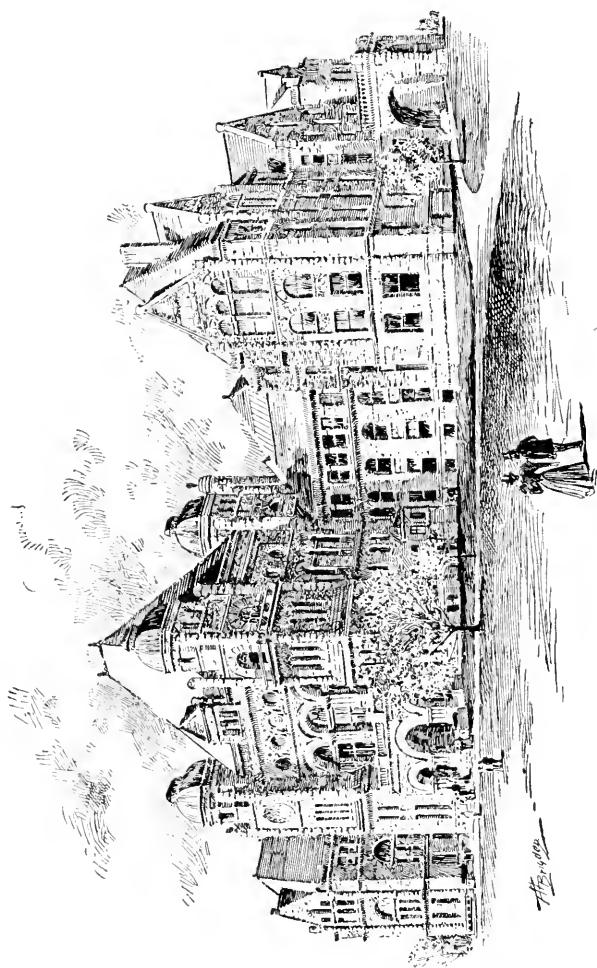
An executive council, responsible to the House of Assembly ;

A legislature, consisting of an elective house, with the addition of an upper chamber appointed by the Lieutenant-Governor on the advice of the Executive Council in Quebec and Nova Scotia only ;

A judiciary, composed of several courts in each province, the judges of which are appointed and paid by the dominion government ;

A civil service, with officers appointed by the provincial government ;

A municipal system consisting of councils, composed of mayors, controllers, aldermen, wardens, reeves and



ONTARIO LEGISLATIVE BUILDING, TORONTO.

councillors, to provide for the management of the cities, towns, townships, parishes and counties ;

A complete system of local school government in every municipality of a province, to provide for the management and support of free schools for all classes of the people.

2.—The Lieutenant-Governor.

The lieutenant-governor, who in practice holds his office for five years, is appointed by the governor-general in council, by whom he can be dismissed for "cause assigned," which, under the constitution, must be communicated to parliament. He represents the sovereign in all matters within the scope of the provincial government and is the head of the executive government of the province. He acts in accordance with the same rules, usages and conventions that govern the relations between the governor-general and his privy council (see *above*, p. 83). He appoints his executive council and is guided by their advice so long as they retain the confidence of the legislature. In the discharge of all the executive and administrative functions that devolve constitutionally upon him and require the action of the crown in a province, the lieutenant-governor has all necessary authority. He can summon, prorogue and dissolve the legislature, make appointments to office, and perform all those executive acts by the advice of his executive council which are necessary for the government of the province. The remarks made above with respect to the governor-general in council apply equally to the lieutenant-governor in council (see *above*, p. 91).

3.—The Executive Council.

The executive council, which is the name given to the body of men composing the administration of each province, a name borrowed from the old provincial systems of government, varies in number and consists of those holding the various provincial offices as heads of departments, and of one or more in addition, who are described as ministers without portfolio.* Ontario, Quebec, British Columbia, Saskatchewan, and Alberta each have eight paid ministers, Manitoba seven, New Brunswick five, Nova Scotia and Prince Edward Island each three. The salaries paid vary greatly as the following, being the cost for each province, show:—

Ontario	\$51,000
Quebec	49,000
Nova Scotia.....	16,000
New Brunswick.....	10,800
Manitoba	36,000
British Columbia.....	51,000
Prince Edward Island	5,700
Saskatchewan	41,000
Alberta	50,500

Their titles vary in some cases, but there is in every executive council an attorney-general, whose duties are to act as law adviser of the government and its departments, enforce the law by prosecutions in the criminal courts, and perform other acts in connection with the administration of justice in the province.

In every province there is a minister generally called the provincial treasurer, whose special function it is to

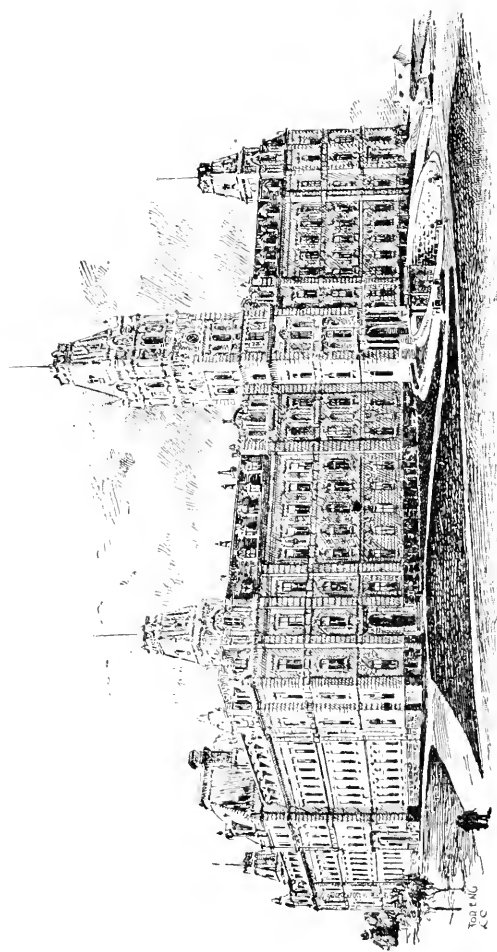
* The ministers in England presiding over departments had portfolios in which were carried the official departmental papers. Those who had no departments had no portfolios.

administer its financial affairs; a minister to look after its public works; a secretary and registrar to manage the correspondence of the government, register all commissions under the provincial seal, as well as bonds and securities given by public officers. There is also a minister of Agriculture in every province, except that of Nova Scotia, who has control of model farms and agricultural colleges—wherever established—and encourages all societies and exhibitions connected with the interests of agriculture, horticulture, fruit raising and dairying, and other industries of the same class.

All the members of the executive council, who hold departmental and salaried offices, must vacate their seats upon appointment, and be re-elected as in the case of the dominion ministers. The principle of ministerial responsibility to the legislature is observed in the fullest sense. All the constitutional rules that govern the relations between the governor-general and his ministers also apply to the relations between a lieutenant-governor of a province and his councillors (see *above*, p. 83).

3.—List of Executive Councils in 1917.

ONTARIO.	QUEBEC.
Premier and President of Council. Provincial Treasurer. Attorney-General. Public Works and Highways. Provincial Secretary. Lands, Forests and Mines. Education. Agriculture. Without portfolio, one.	Premier and Attorney-General Lands and Forests. Colonization, Mines and Fisheries. Public Works and Labour. Provincial Secretary. Agriculture Roads. Treasurer. Without portfolio, two.



LEGISLATIVE BUILDINGS, QUEBEC.

NOVA SCOTIA.

Premier and Secretary.
 Attorney-General.
 Works and Mines.
 Without portfolios, four.

NEW BRUNSWICK.

Premier and Lands and Mines.
 Secretary-Treasurer.
 Public Works.
 Attorney-General.
 Agriculture.

P.E.I.

President.
 Secretary-Treasurer and
 Agriculture.
 Public Works.
 Without portfolios, seven.

MANITOBA.

Premier and Railways and
 Lands.
 Agriculture and Immigration.
 Treasurer.
 Education.
 Attorney-General.
 Provincial Secretary and
 Municipal Commissioner.
 Public Works.

BRITISH COLUMBIA.

Premier and President of
 Council.
 Attorney-General.
 Public Works.
 Lands.
 Mines.
 Agriculture and Railways.
 Finance.
 Education and Secretary.

SASKATCHEWAN.

Premier and Education.
 President of Council and
 Railways.
 Attorney-General and
 Secretary.
 Agriculture.
 Municipal Affairs.
 Public Works.
 Treasurer.
 Telephones.

ALBERTA.

Premier and Railways and
 Telephones.
 Attorney-General.
 Agriculture.
 Public Works.
 Treasurer.
 Secretary.
 Education.
 Municipal Affairs.

This list of offices varies from time to time, according to the necessities of public affairs, and the prime minister may select any position he prefers. In four of the provinces there are executive councillors who have no departmental office, and consequently receive no special salary, their expenses while attending meetings of the council alone being paid. The crown has always the right to summon whom it pleases to the cabinet. Not unfrequently, as it will be seen by reference to the offices indicated in the foregoing list, a member of the council will be entrusted with the responsibilities of more than

one department of the government. Executive councillors are called "honourable," but only while they are members of the council.

4.—Provincial Seals and Coats-of-Arms.

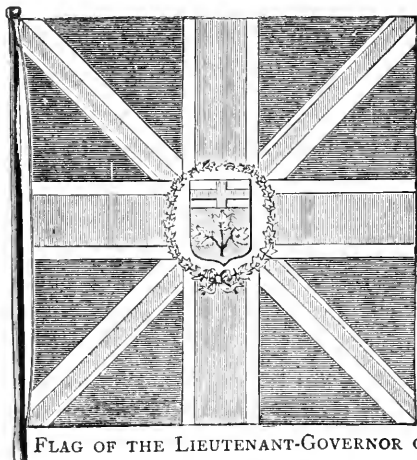
All the provinces have arms of their own, which appear on their great seals, or on any ensigns they have a right to use. Each provincial seal is composed as follows :

In the centre the royal arms, without supporters, but surmounted by the crown ; surrounding the shield, the motto "Dieu et mon droit." Below this shield a somewhat smaller one, containing the provincial coat-of-arms. Surrounding the whole : "The seal of the province of Ontario" (or whatever the province may be).

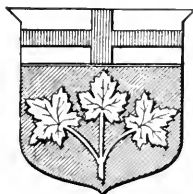
On the following page we give a sketch of all the arms of the provinces as they are composed at present :

5.—Flags of the Lieutenant-Governors.

The lieutenant-governors of the provinces have each a flag, displaying the provincial arms (see p. 161) surrounded by a wreath of maple leaves—but without the crown—on the white ground of the union jack (see *above*, p. 97).



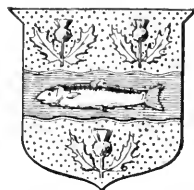
FLAG OF THE LIEUTENANT-GOVERNOR OF ONTARIO. .



ARMS OF
ONTARIO.



ARMS OF
QUEBEC.



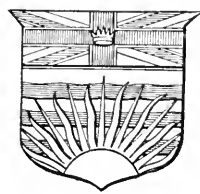
ARMS OF
NOVA SCOTIA.



ARMS OF
NEW BRUNSWICK.



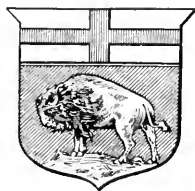
ARMS OF
PRINCE EDWARD
ISLAND.



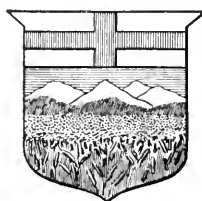
ARMS OF
BRITISH COLUMBIA.



ARMS OF
SASKATCHEWAN.



ARMS OF
MANITOBA.



ARMS OF
ALBERTA.

CHAPTER II.

LEGISLATIVE POWER IN THE PROVINCES.

1. *Legislatures.*—2. *Number of Members therein.*—3. *Voters Qualifications in the Provinces.*
-

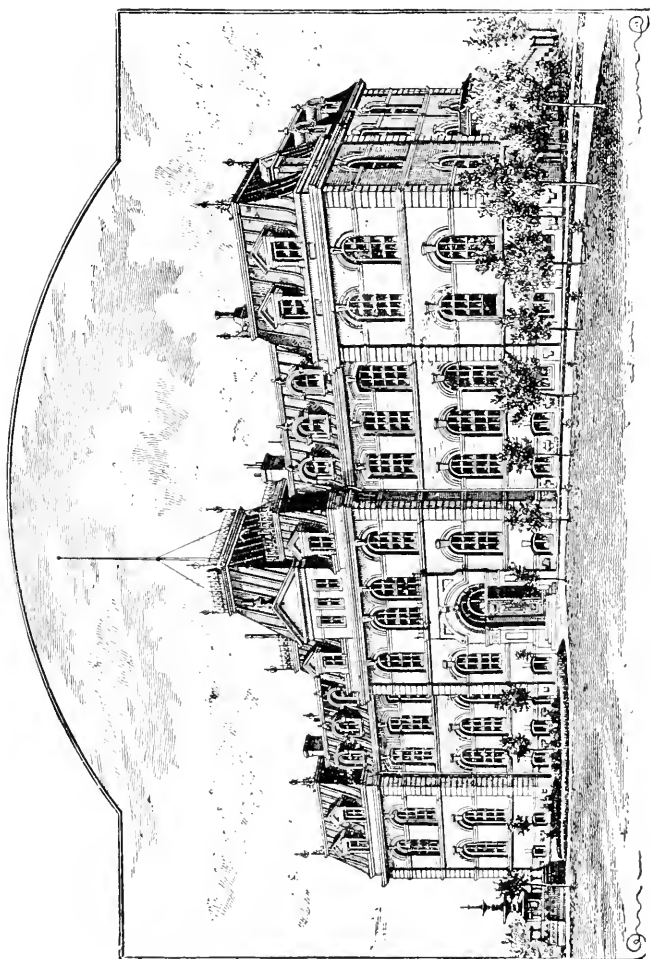
1.—The Legislatures.

The legislatures of the provinces are composed of a lieutenant-governor, a legislative council and a legislative assembly in the provinces of Nova Scotia and Quebec; of a lieutenant-governor and a legislative assembly only in the other seven provinces. In Prince Edward Island, however, there is an assembly elected on a basis different from the other provinces. The legislative council, elected for many years on a property qualification, was abolished as a separate house in 1893 and united with the assembly. The fifteen constituencies now return each a councillor elected by voters with a real estate qualification, to the value of \$325; and a member elected by voters with so small a property qualification that it is practically a manhood suffrage franchise* (see *below*, p. 167). The legislative councillors in Quebec and Nova Scotia are appointed by the lieutenant-governor on the advice of the executive council and must have a property qualification. The president or speaker is also appointed by the lieutenant-governor in council and holds office during pleasure. Members of the council retain their positions during life, unless they become bankrupt, convicted of crime, and in Quebec, if they are

* Manhood suffrage franchise means that every man of full age, *i.e.*, over twenty-one years, has the right to vote.

absent for two sessions consecutively, or otherwise disqualified by law. The council of Quebec consists of twenty-four members; that of Nova Scotia of twenty-one. Their legislative rights are similar to those of the senate of Canada. They can commence or amend all classes of legislation except money or taxation bills (see *above*, 102). While they may reject such bills as a whole, they cannot amend them.

The legislative assemblies of the provinces are elected by the people on a very liberal franchise—manhood suffrage in Ontario, New Brunswick, Manitoba, Saskatchewan, Alberta and British Columbia. A property basis still prevails in Nova Scotia, Prince Edward Island and Quebec (see *below* pp. 167, 169). The number of members varies from one hundred and eleven in Ontario to fifteen in Prince Edward Island. They do not require any property qualification, but must be British born or naturalized subjects of the king, and male citizens of the age of twenty-one years not disqualified by law. They are paid a certain compensation during a session, varying from \$1,000 in Quebec to about \$160 in Prince Edward Island, with the addition of a small sum or a mileage rate, ten cents each way in some cases to pay travelling expenses. The elections are all held on the same day in the provinces, and the vote is by ballot. The methods of conducting elections, from the time of a dissolution until the return of writs for a new legislature, are practically the same as those for the dominion parliament. The lieutenant-governor, by the advice of his executive council, issues a proclamation dissolving the old legislature and appointing the day for the return of writs, and calling the new legislature together. Returning



MANITOBA LEGISLATIVE BUILDINGS, WINNIPEG.

officers receive the writs and the days for nomination and voting are fixed. Voters mark and deposit their ballots in the same secrecy as at a dominion election.

The provincial laws providing for the independence of the legislature, like those of the Dominion, prevent contractors and persons who receive salaries and emoluments from the dominion or provincial governments from sitting in the assemblies. The statutes against bribery and corruption are also strict. In all cases the provincial judges try cases of disputed elections, with the same satisfactory experience that has been the result of a similar system for the dominion controverted elections.

The legislatures have a duration of four years—in Quebec and Nova Scotia, of five—unless sooner dissolved by the lieutenant-governor. They are governed by the same constitutional principles that obtain at Ottawa. The lieutenant-governor opens and prorogues the assembly, as in Ontario, New Brunswick, Prince Edward Island, Manitoba and British Columbia, or the assembly and the legislative council in Nova Scotia and Quebec, with the usual formality of a speech. A speaker is elected by the majority in each assembly, and is appointed by the crown in the upper chamber. The rules and usages that govern their proceedings are derived from those of England, and do not differ in any material respect from the procedure in the dominion parliament (see *above*, p. 115). The rules with respect to private bill legislation are also similar. The British North America Act requires that the legislatures of Ontario and Quebec must sit once in every twelve months, like the dominion parliament, but even without this constitutional direction the fact that

supplies for the public service must be voted every year before a fixed day—either the first of July or the first of January in the different provinces—forces the several legislative bodies to meet before the expiration of a financial year. If they did not meet to pass a new supply or appropriation bill (see *above*, p. 125) before the end of that year, the province would be without money to meet the payment of public salaries, and expenditure on public works and other matters of provincial necessity.

2.—Number of Members in the Legislatures of Canada.

The legislative assemblies of the provinces have the following number of members, all of whom are required to take the oath of allegiance required for members of the senate and house of commons of the dominion parliament (see *above*, p. 113).

PROVINCES.	MEMBERS.
British Columbia.....	42
Manitoba.....	49
Ontario.....	111
Quebec.....	81
New Brunswick.....	48
Nova Scotia.....	38
Prince Edward Island.....	30*
Alberta.....	56
Saskatchewan.....	54
Total.....	509
Legislative councillors in Quebec and Nova Scotia	45
Territorial district of Yukon, 1 commissioner and 10 elected members.....	11
Senators.....	96
Members in Dominion parliament.....	235
Total.....	896

or one representative for about every 6,625 souls of the population of the Dominion.

*Including the fifteen councillors.

3.—Voting Qualifications or Electoral Franchise in the Provinces.

In the provinces every British subject by birth or naturalization, who is a male person (and in Ontario, Manitoba, British Columbia, Saskatchewan and Alberta also females) of the age of twenty-one years, not insane, not convicted of crime, nor otherwise disqualified by any law, can vote at legislative elections within their respective provinces on the following conditions :

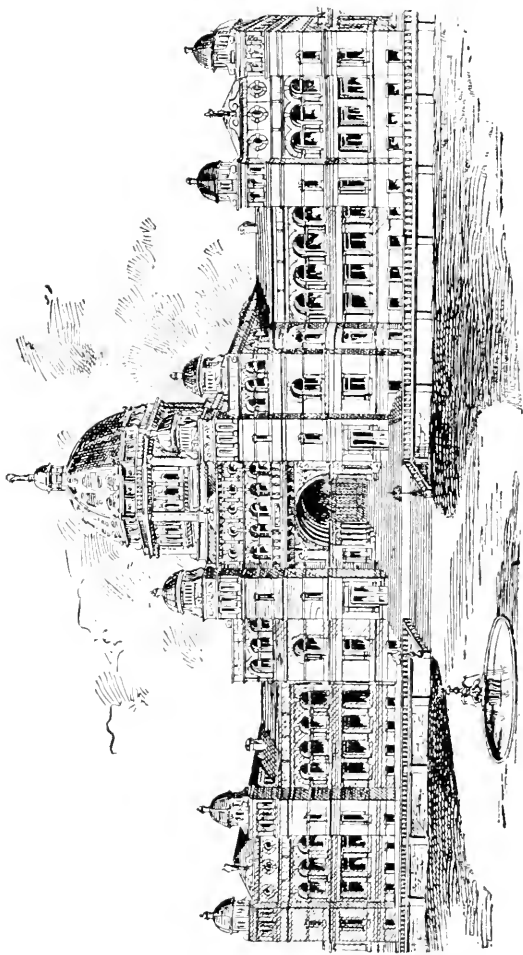
In British Columbia.—Males and females resident in the province for six months, and in the electoral district for one month of that time, who are able to read the election act. Japanese, Chinese, Hindus, and Indians have no vote.

In Manitoba.—Persons, male or female, who have been resident in the province for twelve months, and in the electoral division for three months before the issue of proclamation appointing the registration clerk therein. Indians and persons of Indian blood receiving an annuity or treaty money from the crown cannot vote.

In Ontario.—Persons, male, and female, who have been resident in Canada for twelve months, and for three months in the electoral district. Enfranchised Indians—those who have obtained by law all the privileges of citizens—can vote on the same conditions as other voters ; unenfranchised Indians, not residing on an Indian reserve, or among Indians, can vote on a property qualification.

In Quebec.—Owners, occupants, and tenants entered on the valuation roll and their sons and other descendants, sons-in-law and stepsons, with adopted sons and other persons treated as belonging to the family, provided the above are domiciled with the parent ; teachers and professors ; navigators who are part owners of a registered ship ; fishermen, owners of boats and fishing gear, of the value of at least \$50 ; annuitants ; priests, and ministers of religious bodies ; and persons who in any way receive an average revenue of or worth \$10 a month.

In New Brunswick.—Residents in a district for six months before the making up of voters' lists, and residents of the province who have served in the forces during the present war.



BRITISH COLUMBIA LEGISLATIVE BUILDINGS.

In Nova Scotia.—Persons assessed on real property valued at \$150, or on personal, or on personal and real property together, valued at \$300. Persons exempted from taxation, when in possession of the property just stated. Tenants, yearly, of similar property. Sons of foregoing persons, or of widows, in possession of enough property to qualify as stated above, and actually residing on such property. Persons having an annual income of \$250. Fishermen with fishing gear, boats, and real estate, assessed at an actual value of \$150, provided that such property is within the county where the vote is given. Persons continuously resident in the county with a son qualified to vote if value of son's property sufficient, if divided, to qualify both. But children are entitled to be qualified before grandfather.

In Prince Edward Island.—For a councillor, elector must have been the owner at and for six months before the date of the election writ, of real estate in the electoral district of the value of \$325, and for an assemblyman he must be a resident in an electoral division for twelve months before an election; an owner or occupant of real estate, within the electoral district, of the value of \$100, or of the clear yearly value of \$6, provided he has owned or occupied such property six months before the date of the election writ, who, being otherwise qualified, has paid the road tax. Residents in Charlottetown, Summerside, Souris and Georgetown who, being otherwise qualified, have paid the civic or town poll tax or at least one dollar thereof.

Alberta.—Persons, male or female, who have resided for twelve months in the province, and three months of that time in the district where a vote is sought. Indians have no vote.

Saskatchewan.—Persons, male or female, who have resided in the province for twelve months and in the electoral district in which a vote is sought for three months. Indians and persons of Chinese origin have no votes.

Yukon.—Twelve months' residence. Indians have no vote.

In nearly all the provinces there are certain classes of people who are not entitled to vote, such as the judges, so that they may be kept, as far as possible, free from any interest in party politics, and in some provinces certain other officials.

CHAPTER III.

MATTERS FOR PROVINCIAL LEGISLATION.

- 1.—*Legal Enumeration of Subjects of Provincial Legislation.*—
2. *Education.*—3. *Dominion Power of Disallowance.*
-

1.—**Legal Enumeration of Subjects of Provincial Legislation.**

The subjects that fall within the legislative authority of the provincial governments are very numerous. Comfort and convenience, liberty and life, all the rights of citizens with respect to property, the endless matters that daily affect a community, are under control of the provincial authorities.

The legislature may, in each province, “exclusively make laws” in relation to the classes of subjects enumerated as follows :

1. The amendment, from time to time, notwithstanding anything in the British North America Act, of the constitution of the province, except as regards the office of lieutenant-governor.
2. Direct taxation within the province in order to the raising of a revenue for provincial purposes.
3. The borrowing of money on the sole credit of the province.
4. The establishment and tenure of provincial offices, and the appointment and payment of provincial officers.
5. The management and sale of the public lands belonging to the province, and of the timber and wood thereon. [In the case of Manitoba, Saskatchewan and Alberta, the public lands, as well as those of the Territories belong to the dominion government.]
6. The establishment, maintenance and management of public and reformatory prisons in and for the province.

7. The establishment, maintenance and management of hospitals, asylums, charities and eleemosynary institutions in and for the province, other than marine hospitals.

8. Municipal institutions in the province.

9. Shop, saloon, tavern, and auctioneer and other licenses, in order to the raising of a revenue for provincial, local or municipal purposes.

10. Local works and undertakings other than such as are of the following classes :

a. Lines of steam or other ships, railways, canals, telegraphs and other works and undertakings connecting the province with any other or others of the provinces, or extending beyond the limits of the province ;

b. Lines of steamships between the province and any British or foreign country ;

c. Such works as, although wholly situate within the province, are before or after their execution declared by the parliament of Canada to be for the general advantage of Canada, or for the advantage of two or more of the provinces.

11. The incorporation of companies with provincial objects.

12. Solemnization of marriage in the province. (Marriage and divorce, however, belong to the dominion government.)

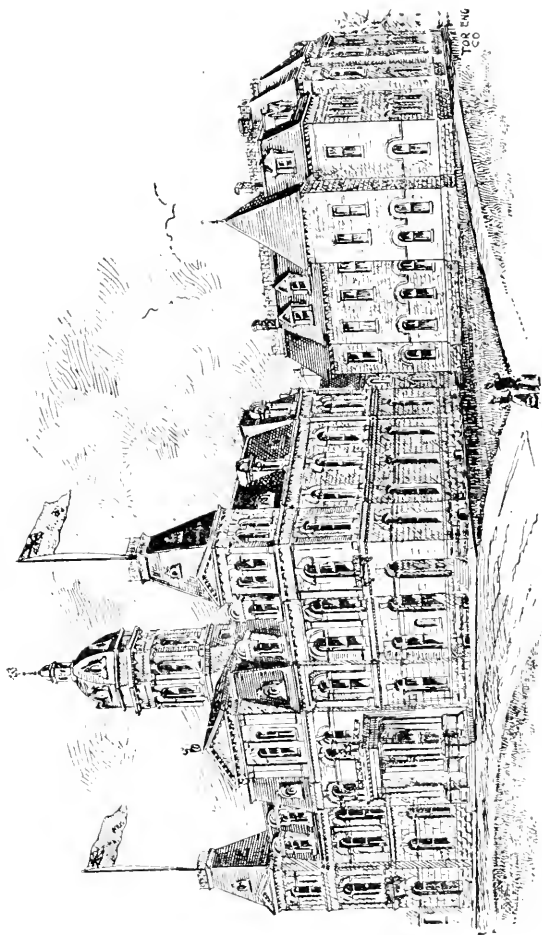
13. Property and civil rights in the province.

14. The administration of justice in the province, including the constitution, maintenance and organization of provincial courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those courts.

15. The imposition of punishment by fine, penalty or imprisonment for enforcing any law of the province made in relation to any matter coming within any of the classes of subjects enumerated in this section.

16. Generally all matters of a merely local or private nature in the province.

A careful consideration of the foregoing subjects will show how large and important a measure of local self-government is given to all the provisional members of the



LEGISLATIVE BUILDINGS, NEW BRUNSWICK.

confederation. Provincial legislation in every way affects the daily life and interests of the people of a province.

2.—Education.

It will be seen above, that the all-important question of education does not fall within the enumeration of matters belonging to provincial legislation mentioned in section 92 of the British North America Act, but that it was considered necessary to devote a special section to it. The reason for this must be sought in the political history of the question.

While the different provinces before confederation were perfecting their respective systems of education, the question of separate schools attained much prominence. The Protestant minority in Lower Canada, and the Roman Catholic minority in Upper Canada, earnestly contended for such an educational system as would give the Protestants in the former, and the Roman Catholics in the latter province, control of their own schools. This was finally effected and separate schools were established at the time of the union, and it accordingly became necessary to give the minorities in question a statutory guarantee for their continuance. The British North America Act accordingly provides that while the legislature of a province may exclusively make laws on the subject of Education, nothing therein shall prejudicially affect any of the denominational schools in existence before July, 1867. Where in any province a system of separate schools existed by law at the time of the union, or was thereafter established by the legislature, an appeal lies to the governor-general in council from any act of a provincial authority "affecting any right or privilege" of a Protestant or Roman Catholic minority. In case the

provincial authorities refuse to act for the due protection of the rights of minorities, in accordance with the provisions of the constitution, then the parliament of Canada may provide a remedy for the due execution of the same. In the constitution given to Manitoba in 1870 there are similar provisions, and an appeal can be made to the governor-general in council when a provincial law or decision affects any right or privilege of the Protestant or Roman Catholic minority in relation to education.* Parliament can only within its own discretion intervene to provide a remedy when the provincial authority does not pass such legislation as seems necessary to the governor-general in council under the provisions of the constitution. Only once since confederation has the dominion parliament been asked to pass remedial legislation, and that was in 1896 in connection with the abolition of Roman Catholic separate schools in Manitoba, but the term of parliament was expiring and there was so much opposition to the legislation, that the proposed measure was never enacted. The government was defeated at the general election that ensued and the dispute was otherwise settled by the new administration.

3.—Dominion Power of Disallowance.

The British North America Act gives to the dominion government a direct control over the legislation of each province, for the governor in council can within one

*In Saskatchewan and Alberta no law is to be passed prejudicially affecting any right or privilege with respect to separate schools possessed by any class of persons under the school law existing at the time the provinces were created in 1905. In those provinces at that time any Protestant or Roman Catholic minority could establish a separate school. The remedy is the same as with respect to the other provinces.

year from its receipt, disallow any act of a provincial legislature, and consequently prevent it becoming the law. Previous to 1867 the imperial government could disallow any act of a provincial legislature within the limits of British North America. The power over the provinces in this respect has now been transferred to the central government of Canada since 1867. This political power is one to be exercised with great discretion and judgment, as otherwise it may involve consequences fatal to the harmony and integrity of the confederation. It may be laid down in general terms that this "veto" can be properly exercised when the act under consideration is beyond the constitutional power of the legislature, or when it is contrary to the rights enjoyed by a minority under the constitution, or when clearly dangerous to the peace and unity of the Dominion generally. The danger arises from the exercise of the power, on the grounds of public policy, in the case of a question clearly within the constitutional powers of a legislature. The general principle that prevails is to leave to their operation all acts that fall within the powers of the provincial legislature, which within its legal sphere has as absolute a right of legislation as the dominion parliament itself; and if the dominion authorities, at any time, for sufficient reasons, consider it necessary to interfere in provincial affairs, they must be prepared to justify their action before parliament and the country. The rule has been to obtain an opinion from the courts in cases of doubt, involving nice and delicate points of law, rather than to use a political power which is regarded with jealousy by the provinces. The law allows such references to be made to the supreme court of Canada (see *above*, p. 135).

CHAPTER IV.

JUDICIAL POWER.

1. *Judicial Appointments.*—2. *Constitution and Organization of Provincial Courts.*—3. *Civil Law of French Canada.*—4. *English Common Law.*—5. *Statutory Law.*
-

1.—Judicial Appointments.

The written constitution provides that the government of the Dominion shall appoint and pay the judges of the superior, district and county courts of the provinces, except those of the probate courts in Nova Scotia. Justices of the peace, police and stipendiary magistrates are, however, appointed by the provincial governments. The judges of the superior courts can only be removed on an address of the two houses of the dominion parliament to the governor-general, after an inquiry before a committee of the commons or senate into any charges that may be made against them. Judges of the supreme or superior courts must be barristers or advocates of at least ten years' standing at the bar of a province; county court judges, barristers of ten or seven years' such standing. Stipendiary and police magistrates must be, generally, of at least three years' standing. All judicial appointments are made on the recommendation of the Dominion minister of justice, except appointments of chief justices, which are made on the recommendation of the prime minister. When judges wish to obtain leave of absence from their duties, or to retire from the public service, it is through the department of justice that all necessary measures are taken.

2.—Constitution and Organization of the Provincial Courts.

The constitution provides also that the governments of the provinces shall have sole control of the constitution, organization, and procedure of all their own courts. At any time they may make changes in the constitution of those courts, abolish any one of them, add a new court, or impose additional duties on existing courts. But whenever a new judge of a superior, or district, or county court is required by a provincial act, it is for the Dominion to provide the salary and make the appointment. While the dominion parliament has no right to abolish, or interfere with the constitution of the provincial courts within their provincial powers, it is quite competent for that body to assign to those courts additional duties in connection with matters which fall within the undoubted powers of the central government—the trial of disputed dominion elections, for instance.

The constitution gives to the provinces exclusive control over all matters affecting property and civil rights, but the dominion parliament can alone make laws relating to crime and criminals; that is to say, define the nature of those numerous offences against public order, religion, morals, persons, rights of property, and the administration of law and justice, that fall under the criminal law, and may be punished by death, or imprisonment, or fines. Treason, murder, manslaughter, forgery, fraud, breach of trust, libel, burglary, receiving of stolen goods, robbery, theft, and conspiracies, are among such offences. The regulation of the procedure or the manner in which the trial of such offences is to

take place is also entrusted to the dominion parliament. The trial of such offences, however, takes place in the courts created by the province.

From the preceding paragraphs it will consequently be seen that the provincial courts have power to try and determine civil and criminal suits and actions at law, affecting the lives, liberties and property of the people within their provincial limits; that the provincial legislature regulates both the law and procedure in matters of personal or private rights, and that the dominion parliament makes the rules of law and procedure in criminal matters. The reason of this division of legislative authority must be sought in the historical fact that in all the English provinces which had so long enjoyed local self-government before 1867, there were differences both in the laws and procedure relating to civil rights and property, based as they were in the English provinces on the principles of English jurisprudence, while in the great province of Quebec they were based on the French law, but the criminal law was the same in the province of Quebec as it was in the other provinces.

3.—The Civil Law of French Canada.

The criminal law of England has prevailed in all the provinces since it was formally introduced by the proclamation of 1763, and the Quebec Act of 1774. The French Canadians never objected to this system of law, since it gave them the advantage of trial by jury, which was unknown to French law. The civil law, however, that prevailed in Canada under the French

rule, has continued to be the legal system in the province of Quebec since the cession, and is much and deservedly cherished by the people. Its principles have been carefully collected and enacted in a code which is based on the famous code prepared by order of the Emperor Napoleon in the beginning of the last century. The rules of procedure relating to the civil law have also been laid down in a distinct code. The civil law of French Canada had its origin, like all similar systems, in the Roman law, on which were engrafted, in the course of centuries, those customs and usages which were adapted to the social condition and progress of France. The various civil divisions or departments of France had their special usages called customs which governed each, but all of them rested on the original foundation of the Roman code of 527-534 before Christ. The custom of Paris became the fundamental law of Canada during the French rule. The law has been modified since 1763 by contact with English laws and customs, and by the necessities and circumstances of a new country; but despite any amendments and modifications it has undergone in order to keep it in touch with the conditions of modern life and the needs of commerce and enterprise, the important principles which affect the civil rights of individuals, the purchase and transfer of property, marriage and inheritance, and many other matters of direct interest to all persons in a community still remain and command the admiration of all jurists. The procedure in the courts is, however, open to criticism, and is much more expensive than it is in the other eastern provinces of Canada.

4.—The English Common Law.

In the other provinces the common law of England forms the foundation of their jurisprudence. Its general principles were brought into this country by the early English colonists, but the courts have held that they did not bring with them those parts of the law which were not suited to the new condition of things in America. It is composed of rules, principles and customs, long established in England, and above all, it is a system replete with the principles of individual liberty and self government.

5.—The Statutory Law.

In addition to the body of the common law, Canada has also availed itself of many of those statutes which have been from time to time passed by parliament in England to meet a condition of things to which the old maxims of the law could not apply. The establishment of legislatures in the provinces, we have seen, was only a little later than the entrance of the large British population, and it was therefore in their power to adapt English statutes to the circumstances of this country at the very commencement of our history, or to pass such enactments as were better suited to the country. Thus it happens that gradually a large body of Canadian statutory law has been built upon the common law foundation of the legal structure. With a view of making the law more intelligible it has consequently been wisely ordered at different times, that all these statutes should be revised and consolidated in one or more volumes, with suitable tables and indexes—by commissions composed of learned lawyers and judges. The people of the Dominion and

of all the provinces, except Prince Edward Island, have now easy access by these means to the statutory law that governs them. It is also found convenient in the intervals between the consolidations of the statutory law to collect together, from time to time, all the enactments on a particular subject and incorporate them, with such amendments as are found necessary, in one consolidating statute. This has been found especially useful in the case of the voluminous laws affecting railways, insurance, banking, and other matters of public import. The criminal law has been consolidated in this way and forms a code of the criminal rules of law to be applied by the courts.

In the Dominion and at intervals in some of the provinces a table is printed in the annual volume of the statutes showing all amendments to the various laws and all important statutes passed since the last general revision of the statutes.

CHAPTER V.

COURTS OF LAW IN THE PROVINCES, THEIR COMPOSITION, FUNCTIONS, AND GENERAL JURISDICTION.

When we come to review the judicial system of the provinces we find in each of them several courts of superior and inferior jurisdiction ; that is to say, whose powers vary very much in importance. These courts may be conveniently classified as follows, commencing at the foot of the judicial structure* :—

1. Inferior courts of civil jurisdiction, for the recovery of debts, and the settlement of civil actions of limited amount.

2. Inferior courts of criminal jurisdiction, for the summary and speedy trial of offenders against the criminal law, for the preservation of the peace in every community, for the preliminary examination of charges of crime, and the committal of the accused to prison for trial before a higher court.

3. Superior courts, for the trial of civil and criminal cases, not limited in amount or nature.

4. The highest court in each province, the court of appeal, to which cases tried by the other courts are brought for reconsideration.

5. Courts with special and limited jurisdiction, such as those for the dissolution of marriage, the proving of wills,

* This chapter is only intended to give the reader a very general view of the judicial machinery.

the trial of disputed provincial and dominion elections, the revision of voters' lists and of assessment rolls in municipalities, etc.

By means of this machinery excellent provision is made for the settlement of controversies of every kind, for the prevention and punishment of crime, and for the preservation of law and order.

In all the provinces there is a court to hear appeals. In the provinces of Ontario, Quebec, New Brunswick, Manitoba and British Columbia this court is composed of separate judges, but in Nova Scotia, Prince Edward Island, Saskatchewan and Alberta, appeals are decided by a number of judges of the supreme or highest court of the province sitting together. Saskatchewan has made provision for having separate appeal judges in the future. Each province has a court of the highest jurisdiction. In Ontario it is called the high court division of the supreme court of Ontario; in Nova Scotia, Prince Edward Island, British Columbia, Saskatchewan and Alberta, it is called the supreme court; in New Brunswick and Manitoba it is called the court of the king's bench, and in Saskatchewan, when the new law comes into force it will also bear this latter name. In Quebec the court of appeal is called the court of king's bench, and there is the superior court which has a jurisdiction corresponding to the high and supreme courts of the other provinces, but the judges are appointed for the various judicial districts into which the province is divided. The original intention was that the judges should reside in the districts for which they were appointed, but as a result of the improvement and rapidity of modern means of travel, and the pressure of

work at the great centres, it has been found better that many of the judges of country districts should reside in Montreal and Quebec. In Quebec, with the exception of the circuit court of Montreal, there are no courts presided over by judges corresponding to the county court judges or district court judges that exist in other parts of Canada.

The judges of the superior courts of the several provinces go on circuit, as it is called, like the judges in eyre of William the Conqueror, visiting the principal towns and cities for the trial of important civil and criminal cases, but the seat of these courts is at the capitals of the provinces.

In addition to these superior courts there are in all the provinces, except Quebec, county court judges. In Saskatchewan and Alberta the judges are called district court judges, those provinces not having been divided into counties. These judges, though their jurisdiction is limited both in civil and criminal cases, the more important cases being reserved for the superior courts, exercise very varied and extensive powers, both with respect to the trial of cases and also with respect to municipal and other matters closely affecting the daily life of the people.

Besides the principal courts above mentioned, the police and stipendiary magistrates and justices of the peace have jurisdiction for the trial of the less important criminal cases and offences and the violation of municipal rules and regulations. In most provinces they also have a very limited jurisdiction in simple civil cases such as suits for small sums of money.

CHAPTER VI.

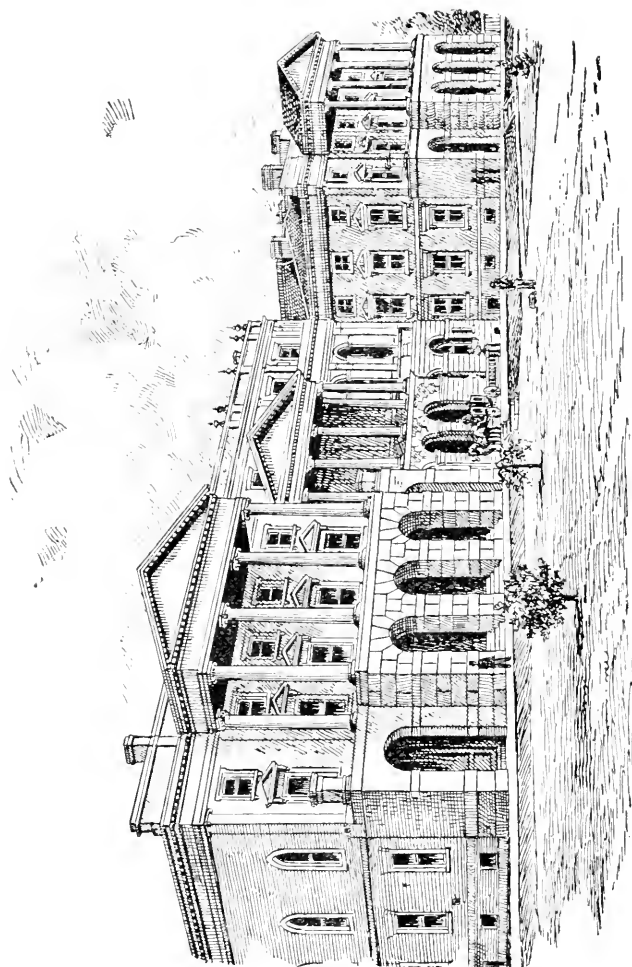
COURTS OF LAW IN THE PROVINCES.—*Continued.*

6. *Probate and Surrogate Courts.*—7. *Courts of Divorce.*—8. *Process of Courts.*—9. *Sheriff and Officers of Courts.*—10. *Constables and Bailiffs.*—11. *Coroner.*—12. *Legal Profession.*—13. *Notaries.*

6.—Probate and Surrogate Courts.

Besides the courts of superior and inferior jurisdiction mentioned above, there are others of a special nature. The probate courts of the provinces of Nova Scotia, New Brunswick and Prince Edward Island, known also as surrogate* courts in Ontario and Manitoba, are presided over by a judge, and have power to deal with matters relating to the wills of deceased persons, or the administration of the effects of persons who leave no such will. The word “probate” shows the character of the duties of this court; its principal function is to prove—from the latin word “*probare*” to prove—that a will is legally executed, and is the last will of the testator. But its jurisdiction extends to other testamentary matters and causes, subject to appeal to the superior courts. In Quebec the law of wills is quite different, and the jurisdiction in probate matters rests with the superior court. In British Columbia the county courts have jurisdiction up to matters involving

*Surrogate comes from a latin word, meaning to put in another's place, and was formerly applied in English law to a deputy or substitute of an ecclesiastical judge, a bishop or his chancellor, who, in England, until recent years, had authority in cases of wills.



OSGOODE HALL (SUPERIOR LAW COURTS), TORONTO.

\$2,500, and the supreme court beyond that amount. In Ontario and Manitoba the county judges are the surrogate judges, and in Nova Scotia the probate jurisdiction is gradually being transferred to the county court judges.

7.—Courts of Divorce.

At the dates when they became part of Canada there existed in the provinces of Nova Scotia, New Brunswick, British Columbia and Prince Edward Island, courts with power to dissolve a marriage between parties for such causes as their respective laws allowed, and this power still continues but there were no such courts in the rest of what is now the Dominion of Canada and as under the British North America Act the parliament of Canada has sole power to deal with the subject of marriage and divorce, and it has never created any divorce court in the provinces of Quebec, Ontario, Manitoba, Alberta and Saskatchewan, or in the Northwest and Yukon Territories the only way in which divorce can be obtained there is to get a special act of the parliament of Canada dissolving the marriage. Applications for such legislation are made in the first instance to the senate which has a special committee and special rules for the purpose.

There are also a number of other courts with limited or special jurisdiction such as Election courts to decide contested elections. Courts of revision to act as courts of appeal in revising the rolls for the assessment of taxes. The heir and devisee court of Ontario to determine claims to unpatented land and the various inferior courts for the administration of the criminal law such as

the Police courts and the other courts with summary jurisdiction.*

8.—Process.

Every court gives effect to its powers by forms of proceeding (process) set forth in the statute defining its jurisdiction and in its rules of practice. In civil actions, process is of various kinds: 1. A writ of summons to compel a defendant to appear before a court. 2. A Subpœna, or summons to witnesses to appear and give evidence in a suit or be subject to a penalty or punishment (which is the translation of *subpœna*). 3. Summons to jurors to appear at a trial. 4. Execution of a judgment or order of a court, besides other proceedings not necessary to mention here. A warrant is a guarantee or protection (the original meaning of an old French word *warrant*) to the person executing it that he has authority for so doing. It is by warrants that persons charged with crime may be brought before a magistrate and committed to prison, and other processes necessary in civil and criminal cases executed.

9.—Sheriff and Officers of the Courts.

The most important officer in the execution of process of law is the sheriff, who is appointed by the lieutenant-governor in council in the provinces. One sheriff is appointed for every county or judicial district in a province. Here again we have another example of our close adherence to old English names. The sheriff was in Saxon times the judicial president of the *scir-gemot*, or assembly (*gemot*) of the shire (*scir*), one of the divisions

*A summary trial is a trial by judge or magistrate without a jury.

of the English kingdoms. He was the "reeve" or head-man of the shire, the *scir-gerefa*, which has in the course of centuries been shortened to sheriff. In Norman times the shire became a county, and its government, judicial, military, and financial, was largely in the hands of the sheriff, who was directly responsible to the king. In the course of time he was deprived of his large powers, and became little more than an officer of the courts, though he preserved remnants of his ancient powers in connection with elections and the preservation of peace and order. He is now in Canada an officer of the superior courts, whose orders, sentences and judgments are carried out under his direction, even to the execution of a criminal. He summons juries, has charge of the jails and their keepers. He appoints his own deputies and officers, and is responsible for their misconduct and negligence in executing the process of the courts. He gives security for the proper performance of his duties.

In connection with the courts there is also a large body of officers, known as county crown attorneys, clerks of the peace, deputy clerks of the crown, prothonotaries,* county court clerks, registrars of high or surrogate courts, and others, all of whom are appointed by the government of a province to perform special duties in connection with the administration of justice.

10.—Constables and Bailiffs.

The name of constable, now one of the lower officers goes back to early Norman times, when it represented an office of high dignity, which nobles were proud to hold. All constables are "peace officers" and serve the

* From two Greek words, meaning a first notary or clerk.

summons and warrants of the proper courts. In cities they are known as policemen. They can arrest persons who break the law in their presence, and bring them before the proper court at the earliest possible movement. Otherwise they act only under an order from a magistrate, sheriff, or court. In times of threatened riot or disturbance, special constables are appointed to preserve the peace. Constables are appointed by the judges of sessions or magistrates, or municipal councils, or police commissioners, as the law may provide. In some provinces there are also bailiffs who serve the writs and other process of the courts, make seizures and arrests and perform other minor duties.

11.—Office of Coroner.

The office of coroner also goes back to early English times, when he was a royal officer appointed to look after the peace and interests of the crown (Latin *corona*, thence *coroner*) in a special district allotted to him. It is now his duty to inquire into the cause of the death of a person who is killed or dies suddenly, or in prison. When the circumstances of the case require an investigation, he summons a jury, calls witnesses, and holds an "inquest" on view of (*i.e.*, after seeing) the body of the deceased. Upon the facts disclosed a verdict is given by the jury. Persons may be charged with murder, manslaughter, or culpable negligence, according to the nature of the death. When a coroner's "inquisition" (inquiry or investigation) charges a person with manslaughter or murder, he must issue his warrant to bring the accused immediately before a magistrate or justice, who will proceed to make inquiry into the case with a

view to committing the accused for trial if the facts require it. Coroners are also to investigate the origin of fires, when the circumstances pointed to incendiarism; but this duty is now generally entrusted to officers specially appointed or designated for that duty.

12.—The Legal Profession.

In each of the provinces there is a law society, incorporated by statute, for the regulation of the legal profession, and to prescribe the conditions and study necessary for admission to the practice of law. In nearly all the provinces every person must be entered as a student-at-law, according to the rules of the law society, for five years before he can be admitted to the bar. But an exception is made in the case of one who has taken a degree in arts or law in a recognized university. In Ontario, Manitoba and British Columbia, the term of studies for a barrister is then reduced to three years. In Quebec, only one year is taken off for admission as an "advocate"—the general designation of a lawyer in that province—when a student has received a degree in law in a university. In Nova Scotia four years' study admits a barrister, but one year is deducted in the case of a university graduate. In New Brunswick, four years' study is required for admission as an attorney, but one year is taken off in the case of a university graduate. Then a person can be admitted as a barrister one year after becoming an attorney. In Prince Edward Island, five years' study is necessary for an attorney and one year later he can be admitted as a barrister, but two years are taken off for a university graduate. An attorney is one who does not plead in court, but prepares

the various papers in a suit and "the brief" or case for the barrister or counsel, who can alone plead and argue before the judge. In some provinces attorneys are called solicitors. In all the provinces examinations are necessary before anyone can be admitted as a law student. Most universities have regular courses of lectures and examinations in law, and confer the degrees of bachelor and doctor of laws. In every case everyone must pass a satisfactory examination before a board of examiners before he is permitted to practice.

The attorney-general of a province has precedence at the bar over all other members, but he ranks below the minister of justice as attorney-general of the Dominion. Both the dominion and provincial governments appoint king's counsel, an office of honour giving the holder precedence, but the duties originally attached to the office have long since ceased. King's counsel ought to be always men of high legal standing.

13.—Notaries.

In Quebec, notaries form a distinct profession, and are incorporated. They are public officers, whose special duty it is to draw up wills, deeds, and other legal documents and formal protests, preserving the originals in safe keeping, and delivering copies and extracts of the same, charging certain fees which are regulated by law. No advocate or physician can hold the position. A course of five years' study is required before admission. In the other provinces, notaries are appointed by the lieutenant-governor in council, and are not a separate profession. Very few are appointed who are not lawyers. A notary—generally called "notary public"—

certifies to the execution of deeds and other writings, or copies of them, and his seal and certificate are accepted as proof at home and abroad. In the English provinces the notary's principal duty is the "protesting" of notes and bills of exchange—in other words, issuing a legal certificate that such commercial paper was not paid at the time and place when and where it was made payable.

CHAPTER VII.

TRIAL OF CIVIL AND CRIMINAL CASES.

1. *Trial by Jury.*—2. *Trial of Civil Actions.*—3. *Trial of Criminal Offences.*—4. *Appeals in Criminal Cases.*—5. *Speedy Trial of Criminal Offences.*—6. *Extradition of Criminals.*—7. *Writ of Habeas Corpus.*—8. *Juvenile Courts.*

I have already explained how William the Conqueror sent his justices in eyre travelling through the country dispensing justice and enforcing the law, and how this principle was developed and continued to the present day, and we still have our “assizes” twice a year (assize from assis, seated, a court with a jury sitting together to try cases) though they are now usually referred to as the sittings of the court, the old French term being translated into English. In Quebec, as has been explained, the superior court judges are appointed for the several judicial districts into which the province is divided, so that there is very little travelling about of the judges compared to the provinces under the English law. These sittings throughout the several provinces bring justice to every man’s door, serving the convenience of the people and saving expense. It is not necessary that the ordinary citizen should know all the details of legal procedure, but there are one or two great heritages of British subjects that every one should know something about, and the first of these is that great protector of our lives and liberties, trial by jury.

1.—Trial by Jury.

Magna Charta provides that "no freeman shall be arrested, or detained in prison or deprived of his freehold, or outlawed or banished, or in any way molested; and we will not set forth against him, nor send against him, unless by the lawful judgment of his peers and by the law of the land," and this provision has been given by many great authorities as embodying the principle of trial by jury. Modern research has upset this theory, and the better opinion seems to be that the jury was a gradual development of an ancient practice introduced after the Norman conquest of making sworn inquests or enquiries. For instance, the famous domesday book was the result of a sworn enquiry by a number of men with respect to the ownership of the land and other matters. The church discouraged the settling of disputes and accusations of crime by single combat, and the trial by ordeal was formally condemned by the church at the Lateran council in 1215, and these circumstances, no doubt, led to the development of the sworn inquest into our modern jury. The jury were taken from the neighbourhood, and at first included those who knew the parties and the circumstances of the case, so that the jury were acting on their own knowledge, and in that sense were witnesses as well as judges. By degrees the jury developed in two forms, the grand jury, or grand inquest of the county, as it was often called, which makes enquiry as to the persons who should be put on their trial and examines the jails and other public institutions, and the common or petty ("petty" from petit, little) jury, which decides whether an accused person is guilty or not, and whether a claim is just or a

debt is due. In addition, there is the coroner's jury and some other kinds of juries now obsolete.

Trial by jury, which never existed under French rule, was established in Canada in 1785 in matters of commerce and personal wrong. The system also formed part of the criminal law which was introduced into Canada after the cession of 1763, and the king instructed the governor-general, Murray, to pass an ordinance to permit French as well as English to sit as jurymen. Gradually it came very generally into operation, even in civil suits in what is now the province of Quebec. At present, jurymen in all the provinces with the exception of British Columbia must be British subjects who are on the assessment roll of a county or other district where they serve, and possess a certain amount of real or personal property. In the province of British Columbia they need only be British subjects and electors in a district. In Quebec and Nova Scotia grand jurors need a higher qualification than petty jurymen. Jurymen are chosen by ballot, but the process is too complicated to explain the details here. The complete list of jurors chosen for a sitting of a court or assize is called a "panel," from the fact that originally the list was written on a little slip or piece (*panel* in old French) of parchment. The men selected for particular trials are said to be "impanelled," entered or enrolled on the panel.

In civil cases of disputed facts juries may still be demanded in nearly every important matter, but of late years the tendency has been to allow the judge to decide both the facts and the law, especially in matters where

there are nice and complicated points of law and fact at issue, and juries are now becoming less common. As a general principle, in the determination of actions at law, where there is a jury, the judge decides the law, and the jury the facts of the case. In most criminal cases an accused person has a right to be tried by a jury, and the verdict must be unanimous. In some cases the accused has the option of being tried summarily by the judge or magistrate alone or of being tried by a jury.

In the trial of issues of fact in civil actions it is no longer necessary to have a jury of twelve or to have a unanimous verdict. In Ontario, the number of a jury is twelve, or eleven under certain circumstances, and the number required for a verdict is ten. In the other provinces the respective numbers are as follows:—Quebec, twelve in all and nine for a verdict; Nova Scotia, nine in all and seven for a verdict after four hours' deliberation; in New Brunswick, seven in all and five for a verdict in the supreme court, but five in all and four for a verdict in the county court; in Prince Edward Island, seven in all and five for a verdict; in Manitoba, twelve in all but nine for a verdict, though parties may agree to a jury of nine; in British Columbia, eight in all in the supreme court, with three-fourths for a verdict in the same court, but five in all and four for a verdict in the county court, when in either case they have been in deliberation for three hours and are not unanimous in all respects; in Saskatchewan twelve form the jury, and ten can return a verdict; and in Alberta six form a jury, but the verdict must be unanimous.

2.—Trial of Civil Actions.

In actions between persons for the settlement of a dispute, the one who commences the suit for redress is called the plaintiff (from the French word meaning *one who complains*), and the other who is asked to give that redress or to defend his refusal is the defendant (from a French and Latin word meaning *to ward off*, or *defend*). The plaintiff obtains from an officer of a court a writ of summons and a statement of the claim, and these are served on the defendant, who has to put his defence in the form required by law, in certain cases one or both of the parties can make further statements. The case is placed before the court in these *pleadings*, the object of which is to get from both parties a full statement of the claim and defence. When the case is ready for trial, and is called by the officer of the court, the counsel for the plaintiff explains the nature of the claim at issue. He then calls upon his witnesses, who are examined one after the other by himself, and cross-examined by the defendant's counsel to break down their testimony, if possible, or bring out points in favour of the defendant's side. Then, when the evidence for the plaintiff is all in, the defendant may call and examine his witnesses, who are cross-examined in turn by the plaintiff's counsel, and in certain cases the plaintiff may call additional witnesses to explain or contradict new statements made by the defendant's witnesses. If there are no witnesses for the defence the plaintiff's counsel sums up his evidence, and the defendant's counsel replies. Sometimes the judge may order a "non-suit"; that is, dismisses the suit on the ground that the plaintiff has failed to make out his case. When the evidence is given on both sides,

the counsel for the defendant sums up, and the counsel for the plaintiff replies. If the case is one for a jury, the judge makes such observations as he deems proper, and instructs the jury as to the law of the case. The jury then retire to their room to consider their verdict, which will be a decision on the facts, the law of the case they must take from the judge. If they have decided for the plaintiff or defendant they return, and through their foreman give their verdict. If they cannot agree, and the judge is of opinion that there is no probability of their coming to an agreement, they are discharged from attendance, and the case has to be tried again before a new jury. Speaking generally, the costs are paid by the person who has lost his suit. This has, however, to be decided by the court according to its discretion and the circumstances of the case. The law gives suitors in most cases an opportunity of appeal to the court above. A plaintiff or defendant may conduct his own case, but when he is not a lawyer the wise course is to employ a professional man. A person charged with a criminal offence also has the right to defend himself.

3.—Trial of Criminal Offences.

In criminal cases, involving life and liberty, justice proceeds with the greatest care. It is the duty of the crown prosecutor—to take all the steps that the law requires for the trial of a prisoner after he is committed for trial by a magistrate on a criminal offence. The “information” and all other papers setting forth the cause of the commitment are submitted to what is called a grand jury (except in Alberta and Sas-

katchewan, where it is sufficient to have the trial commence by a formal charge in writing setting forth the offence). The grand jury is composed of not less than twelve and not more than twenty-four persons chosen from a carefully selected panel or list of jurymen (see *above*, p. 196). In provinces where the panel is not more than thirteen, seven only are necessary to find a "true bill." The grand jury do not "try" an accused. No witnesses in support of the prisoner are examined, for the grand jury has only to decide whether there is sufficient evidence to put the prisoner on his trial. If the grand jury decides that there is, the foreman writes "true bill" on the bill of indictment which is a formal statement of the offence charged. If there is no such case, he writes "no case," and the accused is entitled to his liberty. From time to time an agitation has been started for the abolition of grand juries; but the conservative instincts of the people have so far prevented any change being made in an old English law instituted for the protection of persons from false or unfounded accusations.

In the case of a "true bill," the accused is said to have been indicted and is put on his trial before a petty (from the French *petit*) or common jury, chosen from the panel for that sitting of the court.

The counsel for the crown is always a prominent barrister, generally a king's counsel, chosen to conduct the prosecution by the attorney-general of the province. In all criminal cases the reigning king or queen is nominally the prosecutor, and it is in his or her name that all actions are brought against those who commit a criminal

offence, for all offences are considered to have been committed against the peace of the sovereign, and in the old forms of indictments the offender was stated to have been instigated by the devil and to have committed the offence against the peace of our sovereign lord the king, his crown and dignity. It is the duty of the attorney-general of the province to protect the interests, as it is termed, of the crown, but really, of course, of the people, in all criminal cases affecting life, liberty and property. When the prisoner is standing in the dock,* in the presence of the court, the indictment must be read to him, and he is called upon to plead "guilty" or "not guilty." The next step is to choose twelve jurors from the panel. Each jurymen is called by name and address, but before he is sworn, both crown and accused, acting through their respective counsel, can "challenge" (or object to) a jurymen serving on the trial. This objection may be without cause assigned ("peremptory") or for some special cause, as that he has expressed or is known to have an opinion on the case, that he is a particular friend of the accused, or is otherwise likely to be influenced one way or the other. The number of "challenges" are regulated by the law, having regard to the gravity of the offence.

The twelve men selected are sworn and compose the jury to try the prisoner on the indictment presented by the crown. Then the crown counsel states the case against the accused, and points out the nature of the evidence to be produced. Witnesses for the crown are called, and when each has sworn or "affirmed" to tell

* Probably from an old Dutch word, meaning a cage—the dock being a closed-in seat to prevent the prisoner from escaping.

“the truth, the whole truth, and nothing but the truth,” he or she is duly examined by the crown counsel. Sometimes the court orders, in important cases and under special circumstances, that witnesses be kept out of the court room, and each witness is called in separately and examined, so that the others may not hear what is said. Counsel for the defence can cross-examine the witnesses. At the close of the case for the prosecution the defence must declare whether it intends to present evidence, and if the reply is in the negative the crown’s counsel may sum up, and the defence follows. The attorney-general, or counsel acting on his behalf, may reply, but this privilege is usually reserved for special occasions. When the defence has evidence to adduce, it has the right to state the case on behalf of the accused, and then examine witnesses who are subject to cross-examination by the crown counsel. Any person on trial may give evidence on his or her own behalf. When the evidence for the defence is closed the counsel can sum up. The crown’s counsel replies, and the judge finally reviews the evidence with strict impartiality and explains the law. The jury then retire in charge of an officer of the court to consider their verdict. When they have decided they come into court, and after each has answered to his name, they, through their foreman, declare whether the prisoner is “guilty,” or “not guilty.” When they cannot agree, and the court is satisfied that it is useless to keep them longer, they are discharged from attendance, and a new jury may be drawn from the panel and the accused tried again, or the trial postponed on such conditions as justice may require. Sometimes in giving a verdict of guilty the jury may consider some circumstances justify

them in adding a recommendation of mercy. While this does not prevent the passing of the sentence it in most cases affects the punishment imposed by the judge. Usually the judge has a discretion, within certain limits, as to the penalty he imposes, but in cases of high treason or murder he has no such discretion. A recommendation to mercy, if made in a case where the punishment is death, is submitted to the government when they are considering whether the sentence should be carried out or not.

4.—Appeals in Criminal Cases.

The law allows appeals to a higher court in criminal cases under special circumstances. Points of law may be taken to the court of appeal. If that court gives a unanimous decision on the question submitted, it is final; but if any of the judges dissent, the case may go to the supreme court of Canada. Sentence may be postponed until the point at issue has been decided. A new trial may be allowed, or other order given in the interests of justice. The court of appeal or the minister of justice may also order a new trial when the court before which the trial took place gives leave to the prisoner's counsel to apply to the appeal court on the ground that the verdict was against the weight of evidence, or when the minister of justice himself entertains a doubt as to the justice of the conviction.

If no appeal is allowed, or no new trial ordered, the convicted person must suffer the punishment that has been awarded him, unless indeed the governor-general is advised by the minister of justice, or in capital cases by the government, to exercise the royal prerogative of

mercy, and modify the sentence, or pardon the prisoner, which is only done under very exceptional circumstances.

5.—Speedy Trial of Criminal Offences.

In the case of persons committed to jail for trial for certain criminal offences, they may elect—state their preference—to be tried at once by a court without a jury. The court in such cases being either a county court, or district judge, or a magistrate, and in some places a judge of a superior court.

6.—Extradition of Criminals.

Treaties exist between England and nearly all foreign countries for the extradition (surrender) of persons who have fled to or from Canada or any other part of the British Empire, after committing any of the criminal offences named in the treaty. A judge may issue his warrant for the arrest of such a fugitive in Canada on a foreign warrant, or on an information or complaint laid before him. The judge may hear the case in the same manner, as nearly as may be, as if the fugitive were brought before a justice of the peace, charged with committing a criminal offence in Canada. When he commits a fugitive to prison he transmits all the papers in the case to the minister of justice, who, after inquiry, may order his surrender to the officer authorized by a foreign state to receive him. He cannot be surrendered until the end of fifteen days after committal, and he can in the meantime apply for a writ of *habeas corpus* (see *below*). The crimes for which a person may be surrendered are those of a grave character: such as murder, forgery, larceny, embezzlement, abduction, arson,

robbery, perjury, obtaining goods by false pretences; but no purely political offence is included.

7.—Writs of Habeas Corpus.

This famous writ, which protects the liberty of everyone rich or poor, like all proceedings in old English times, was written in Latin, and owes its name to the opening words meaning "bring the body with the cause of detention" (*habeas corpus cum causa*) so that the judge may decide whether the imprisonment is lawful, and if so, whether the prisoner may properly be released on bail.

Many great authorities have stated that we owe this writ to Magna Carta. This is only true in the sense that the Great Charter laid down in clear and decisive enactments that the free Englishman was not to be arrested, detained in prison or in any way molested unless by the lawful judgment of his peers and by the law of the land, and the free Englishman therefore took such steps as were necessary to secure his rights. The writ was originally intended for the purpose of making sure that the prisoner was duly detained, but its purpose was ingeniously changed to the making sure that the jailer had legal warrant for holding his prisoner. At first there were ways of evading the writ which were taken advantage of by the king and by others who sought to oppressively imprison those with whom they were displeased or whom they desired to injure. For instance, if the jailer neglected to obey the writ a second or a third writ had to issue, which caused delay, or a judge might oppressively fix on a distant date for the prisoner to be brought before him, or the prisoner might be removed from one jail to another; or the court might grant

adjournments. Then, too, the writ could not be issued in vacation, and the vacations of the court were numerous and one of them very long. The first important amendment was the Habeas Corpus Act in the reign of Charles II., which required the jailer to make a return in a limited number of days, according to the distance of the jail from the court, forbade the removal of a prisoner from one jail to another, allowed the writ to issue in vacation, provided for releasing a prisoner on bail in certain cases and imposed heavy penalties on any judge who refused the writ or the jailer who did not obey it. There still remained several defects, however, and so in 1816 another statute was passed extending the use of the writ to imprisonment for causes other than crime, and allowing the judge to enquire into the truth of the return made by the jailer.

In the Bill of Rights passed in 1689, after the accession of William and Mary, demanding excessive bail was forbidden, but it is not of course possible to fix the amount of bail by statute, as the amount necessary depends on the circumstances of each case, and so the law provides that the magistrate or judge is to fix the amount of bail, subject to appeal in case the amount is alleged to be excessive.

Under the French régime no such law was ever in force, and it was only after the cession of Canada to England that it was introduced as a part of the English criminal law, and incorporated in an ordinance to prevent doubts as to its operation. Now the law permits any person who is in prison and believes he has a right to his personal liberty, to obtain the writ directing the jailer to bring him before the court, when his case may

be fully argued on the points raised ; and if he can show that he is unlawfully detained the court will order him to be discharged from custody.

8.—Juvenile Courts.

In 1908 provision was made for the establishment of juvenile courts for the trial of offenders under the age of sixteen. The first juvenile court was established by Judge Lindsey, at Denver, U.S.A., and was so successful in saving children from careers of crime that the establishment of these courts has become widespread. A judge is selected for the court who is sympathetic and understands children. The procedure is all in private, and no report of the trial is to be published without the consent of the judge. Special detention homes are provided and the court has power to release a child on probation or place the child in a suitable home, the object of the Act being to see that a juvenile delinquent is not branded as a criminal and that every means available is adopted to keep such a child from bad influences. The success of these courts has been wonderful, and many children have been saved and made good citizens of.

CHAPTER VIII.

PROVINCIAL REVENUES.

1.—Sources of Revenue.—2. Provincial Subsidies.—3. Crown Lands.

1.—Sources of Revenue.

The revenues of the provinces are chiefly derived from the proceeds of royalties from mines, the sales of crown lands, timber and minerals, the subsidies or annual allowances made by the dominion government under the authority of the British North America Act and the amending statutes for the purpose of enabling them to carry on their governments (see *below*, p. 210) and various taxes. The ninety-second section authorizes the legislatures to impose direct taxation in the province in order to raise a revenue for provincial purposes, to borrow money on the sole credit of the province, and to raise money from shop, saloon, tavern and auctioneer licenses, in order to the raising of a revenue for provincial, local, or municipal purposes. At the Quebec convention this question of provincial revenue was one that gave the delegates the greatest difficulty. In all the provinces the sources of revenue were chiefly customs and excise duties which had to be set apart for the federal government. Some of the delegates from Ontario, where there had been for many years an admirable system of municipal government in existence which provided funds for education and local improvements, saw many advantages in direct

taxation; but the representatives of the other provinces could not consent to such a proposition, especially in the case of Nova Scotia, New Brunswick and Prince Edward Island, where there was no municipal system, and the people depended almost exclusively on the annual grants of the legislature for the means to meet their local necessities. All of the delegates, in fact, felt that to force the provinces to resort to direct taxation as the only method of carrying on their government, would be probably fatal to the success of the scheme, and it was finally decided that the central government should grant annual subsidies, based on population and the provincial debts. These financial arrangements were incorporated in the act of union, and necessarily entail a heavy expense annually on the exchequer of the Dominion. In consequence of the demand that arose in Nova Scotia for "better terms," previous to and after the union, the parliament of the Dominion, in the session of 1869, legislated so as to meet the demand and granted additional allowances to the provinces, calculated on increased amounts of debt as compared with what they were allowed in the British North America Act of 1867. Manitoba, British Columbia, Prince Edward Island, Alberta and Saskatchewan also obtained annual subsidies in accordance with the general basis laid down in the constitution. It is from these subsidies that all the provinces derive the greater part of their annual revenues. Nova Scotia has a considerable fund from the proceeds of "royalty," or a tax levied on the quantity of coal and other minerals raised at the mines. Ontario is in the most favourable position from the very considerable revenue raised from lands, mines and timber dues, and

from the admirable system of municipal government, which has during half a century given such a stimulus to local improvements. The imposition of direct taxes has of late years steadily increased. The principal instances are taxes imposed on corporations, business taxes, income taxes, and taxes on the estates of deceased persons usually called "succession taxes" or "duties."

2.—Provincial Subsidies.

The subsidies and allowances paid in 1916 by the dominion government to the several provincial authorities are as follows :

	Authority.	\$	cts.	\$	cts.
<i>Ontario—</i>					
Allowance for Government and local purposes	B.N.A. Act, '07	240,000	00		
80 cents a head on 2,500,000, 60 cents a head on 23,274 population, 1911.	" "	2,013,964	40		
5 p.c. on \$2,848,280.52, capital added in 1884.	47 Vic., c. 4	112,414	48		2,366,378 88
<i>Quebec—</i>					
Allowance for Government and local purposes.	B.N.A. Act, '07	240,000	00		
80 cents a head on 2,062,712 population in 1911 (amended)	" "	1,692,189	60		
5 p.c. on \$2,519,213.60, capital added in 1884.	47 Vic., c. 4	127,460	68		1,969,650 28
<i>Nova Scotia—</i>					
Allowance for Government and local purposes	B.N.A. Act, '07	190,000	00		
80 cents a head on 192,338 population in 1911 (amended)	" "	363,870	40		
5 p.c. interest on \$1,055,925.12, capital 1st July, 1913.	47 Vic., cap. 4	52,796	46		636,666 86
<i>New Brunswick—</i>					
Allowance for Government and local purposes	B.N.A. Act, '07	180,000	00		
80 cents a head on 351,889 population in 1911 (amended)	" "	281,511	20		
Indemnity for loss of export duty on lumber.	36 Vic., c. 41	150,000	00		
5 p.c. interest on \$525,266.36, capital 1st July, 1913.	47 Vic., cap. 4	26,461	96		637,976 16
<i>Manitoba—</i>					
Allowance for Government and local purposes.	B.N.A. Act, '07	190,000	00		
80 cents a head on 532,006, estimated population, Dec. 1st, 1913.	B.N.A. Act, '07 and R.S., 1906, cap. 28	425,612	80		
Indemnity in lieu of public lands.	2 Geo. V., cap. 32	400,007	18		
5 p.c. on \$7,651,683.85, Debt Acct.	" "	381,581	18		1,406,204 16
<i>British Columbia—</i>					
Allowance for Government and local purposes.	B.N.A. Act, '07	180,000	00		
Additional allowance for Government and local purposes for ten years from 1st July, 1907	" "	100,000	00		
80 cents a head on 382,180 population in 1911 (amended).	" "	313,984	00		
Compensation for lands for Can. Pac. Ry.	O. C. Windsor, 16 May, '71	100,000	00		
Interest at 5 p.c. on \$400,913.32, balance of debt.	" "	21,995	67		
Interest at 5 p.c. on \$83,107.88, capital added in 1884.	47 Vic., cap. 1	1,155	39		723,135 06

	Authority.	\$	cts.	\$	cts.
<i>Prince Edward Island—</i>					
Allowance for Government and local purposes.	B.N.A. Act, '07	100,000	00		
80 cents a head on 109,078 population in 1891	"	87,262	40		
Compensation in lieu of Crown lands.	O. C. Windsor, 26 June, 1873.	45,000	00		
5 p.c. on \$775,791.83, balance Debt Acct., 1st July, 1913.	"	38,789	58		
Additional subsidy.	50-51, Vic., c. 8.	20,000	00		
"	1 Edw. VII, c. 3.	30,000	00		
"	2 Geo. V, c. 42.	100,000	00		
		421,051	98		
Less—5 p.c. interest on \$782,402.33, land purchase acct.		39,120	10		
				381,931	88
<i>Alberta—</i>					
Allowance for Government and local purposes.	B.N.A. Act, '07.	190,000	00		
80 cents a head on 539,000 estimated population, Dec. 1st, 1913.	"	431,200	00		
Allowance in lieu of debt, 5 p.c. on \$8,107,500.	4-5 Ed. VII, c. 3.	405,375	00		
Allowance in lieu of public lands.	"	562,500	00		
				1,589,075	00
<i>Saskatchewan—</i>					
Allowance for Government and local purposes.	B.N.A. Act, '07	190,000	00		
80 cents a head on 691,000 estimated population, Dec. 1st, 1913.	B.N.A. Act, '07, and 4-5 Ed. VII, c. 42	552,800	00		
Allowance in lieu of debt, 5 p.c. on \$8,107,500.	4-5 Ed. VII, c. 3.	405,375	00		
Allowance in lieu of public lands.	"	562,500	00		
				1,710,675	00
Total.				11,451,673	28

3.—Crown Lands in the Provinces.

In all the provinces there are large tracts of public, unsettled lands, called crown lands. By the British North America Act all the lands, mines, minerals and royalties that belonged to Canada, Nova Scotia and New Brunswick at the union remained in the possession of the provinces in which they were situate. The terms of union with Prince Edward Island in 1873 enabled its government to purchase the claims of the proprietors to whom all the lands of the province had been granted by the imperial authorities in 1767. In this way the government of the island became at last owners of a small tract of crown lands not occupied by the inhabitants who, for the most part, had been only tenants before the purchase in question. The British Columbia government, on entering the federation in 1871, retained their public lands with the exception of a strip of land along the proposed route of the Pacific Railway known as the "railway belt," which they conveyed to the Dominion for the construction of the Canadian Pacific Railway. In Manitoba, Alberta, Saskatchewan and the Northwest Territories the public lands belong to the dominion government, it having purchased the land from the Hudson Bay Company. All these dominion and provincial lands can be granted only by the crown; that is to say, by the governments of Canada or of each province. The history of the tenure of land in England and her colonial possessions goes back to many centuries ago. In earliest English times, all land that was not held by individuals belonged to the nation, and was called "folk-land." It

could be disposed of only by the consent of the people's council, the witenagemot, or assembly of the wisemen. Gradually as the king's power increased, and he came to be regarded as the nation's representative, the public land was looked upon as his own. At first, he asked the assent of the council before granting it, but eventually he dispensed with that form altogether. With the coming of Norman William the principles of feudalism—from "feod," an estate—which had so long prevailed in France and Germany, were established in England. Feudalism was based on the principle of a lord giving land to a vassal or tenant, he in return to render to the lord, military service, or part of the produce, or money or men. The absolute proprietorship in the soil, however, rested in the lord who could resume it on a failure of the tenant or vassal to perform his obligations. Thus the king gave land to nobles or lords for military or other services, they again divided these lands among their own retainers also on certain conditions of service. But the king of England from William's time was the supreme lord to whom the barons and nobles, and the tenants under them as well, alone owed allegiance and service. "Folk-land" became now "crown land." The whole soil of England except the ecclesiastical domain, fell into the king's possession as a result of the conquest, and he granted it to whom he chose. No land henceforth could be held as a grant except from him. In the course of centuries all the military conditions of land tenure and other aids which the king claimed as lord paramount of the kingdom were swept away, and the proceeds of the public or crown lands became a portion of the national revenue. The sovereign has given up all his ancient

hereditary revenues, including the crown lands, in return for a "civil list," or a fixed sum of money granted by parliament for the support of the government and the maintenance of the dignity of the crown. In this way the crown land has again become practically the folk-land. The conveyance of land in England is still remarkably encumbered by the conditions of old feudal tenure, but Canada is now free from all such difficulties. The seigniorial tenure of French Canada was a form of feudalism, but all that was oppressive in it was abolished forty years ago. In the present mode of granting the public domain, however, we see a relic of feudalism. The crown is still theoretically the owner, and in its name alone can the public land be granted away. The crown, however, now means the government of the Dominion, or the government of a province, according as the lands lie in the one or the other, and they convey and grant land by a legal document called a "patent," while the revenue derived is used for the benefit of the people. In all the provinces, and in the Dominion, some member of the government has the supervision and management of this branch of the public service. Throughout Canada there are registry offices under the charge of officials whose special duty it is, in return for a small fixed fee, to record all grants, titles and mortgages, and all other matters touching the sale, conveyance, and encumbrances of real estate, and these records may be examined upon the payment of a fee, so that the legal owners of the land may be ascertained by anyone interested.

FIFTH PART.

MUNICIPAL GOVERNMENT
IN THE PROVINCES.

CHAPTER.	PAGE
I-II.—NATURE OF THE MUNICIPAL SYSTEMS OF THE PROVINCES .	219

CHAPTER I.

NATURE OF THE MUNICIPAL SYSTEMS OF THE PROVINCES.

1. *Growth of Local Self-Government.*—2. *Statutory Law Governing Municipal Institutions.*—3. *Municipal Divisions.*—4. *Constitution of Councils.*
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1.—Growth of Local Self-Government.

We have now to consider the important place occupied by local self-government in the provincial structure. In the days of French rule, as my readers have already been told (see *above*, p. 15), the most insignificant matters of local concern were kept under the direct control of the council and especially of the intendant at Quebec. Until 1841 the legislature of Quebec was acting as a municipal council for the whole province, and the objection of the *habitants** to any measure of local taxation prevented the adoption of a workable municipal system. In Upper Canada, however, the legislature was gradually relieved of many works and matters of local interest by measures of local government which infused a spirit of energy and enterprise in the various counties, towns and cities. The union of 1841 led to the introduction of municipal institutions in both the provinces, in conformity with the political and material development of the country. By 1867 there was a liberal system in operation in Upper and Lower Canada, but the same cannot be said of the maritime

* The French Canadian name for the farmers of Quebec.

provinces. It is comparatively recently that the legislatures of Nova Scotia and New Brunswick have each organized a municipal system on the basis of that so successfully adopted in the larger provinces. In Prince Edward Island, however, matters remain much as they were, and in such a small community the legislature is quite able to attend to the municipal concerns of the whole island. Charlottetown, Summerside, Gagetown, Souris and Kensington have special acts of incorporation giving them elected mayors and councils, with the right of taxation for municipal purposes as in other provinces. At the present time all the provinces, with this one exception, have an excellent municipal code, which enables every defined district, large or small, to carry on efficiently all those public improvements essential to the comfort, convenience, and general necessities of its inhabitants. Even in the Yukon every facility is given to the people in every populous district, to organize a municipal system equal to all their local requirements.

2.—Statutory Law Governing Municipal Institutions.

The ninety-second section of the British North America Act (see *above*, p. 170), gives to the legislature of every province full control over municipal institutions. The legislature can consequently establish, amend, and abolish municipal systems within the provincial territory. While every province has a general law regulating its municipal divisions and their councils, there are also numerous special statutes relating to the corporations or municipal councils of particular cities and towns. The councils exercise their powers in accordance with these enactments, and when they exceed them at any time they can be restrained by the courts.



CITY AND COUNTY BUILDINGS, TORONTO.

3.—The Municipal Divisions.

While there are many differences in the details of the machinery, all the municipal systems of the provinces are distinguished by certain leading characteristics. The municipal divisions common to all the provinces except British Columbia and Saskatchewan and Alberta which have no counties, are county, city, town, township and village. In Quebec the parish which is an ecclesiastical or church district, can also be formed by the civil authority at the request of the inhabitants into a municipality. In New Brunswick, the parish dates back to the closing days of the eighteenth century and is a civil division.

4.—Constitution of Councils in the Provinces.

In Ontario the county councils are composed of the reeves and deputy reeves of the towns, villages and townships of the county. The council meets at or after two o'clock on or after the fourth Tuesday of January following the election, and a majority of a full council elect a warden from their own number. The council in every city consists of a mayor and two or three aldermen for every ward. The Legislature has provided for the election of a Board of Control, in cities of over 100,000 to consist of the mayor and four controllers; in towns of a mayor and a number of councillors depending on population, the number of wards, etc.; in towns in the organized portions of the province of a reeve and one or more deputy reeves; in every township and village, of a reeve, deputy reeves and councillors. Mayors, reeves, and councillors are elected by general vote except in cities and townships divided into wards, where aldermen

are elected by the vote of the ward which they represent.

In British Columbia councils of cities established since 1892 consist of a mayor and from five to ten aldermen and two controllers where there is a board of control ; in district municipalities, of a reeve and from four to eight councillors. These numbers may be increased under certain conditions. Mayors and Reeves are elected annually by general vote, and aldermen and councillors by wards where such exist. The law makes special provision with respect to the cities of Nanaimo, Victoria, Vancouver and New Westminster.

In Quebec the county councils are composed of all the mayors of the "local municipalities" in the county. These mayors are called "county councillors" in the county council and choose the head or warden every year from among their number. The "local municipalities" comprise parishes, townships, towns and villages, they are governed by councils, each of which is composed of a mayor and six councillors elected by the ratepayers in each municipal district, or appointed by the lieutenant-governor of the province in case of a failure to elect. A councillor remains in office for two years, three being elected each year. The mayor or head of the council is elected by a majority of the whole council and holds office for a year. Cities and many of the towns have special acts of incorporation, and aldermen and councillors are usually elected by a general vote of the ratepayers. In the majority of cities the mayors are elected by a general vote ; in some, by the board of aldermen.

In Nova Scotia the county councils consist of councillors annually elected by the ratepayers—one for each polling division of a county electing a member to the house of assembly, except in certain polling districts, mentioned in act, which are given two—and of a head or warden, appointed by the council every year. Town councils are composed of a mayor and councillors, elected by the ratepayers. Many of the towns have special acts of incorporation, but all are now subject to a general act. The mayor is elected annually, and a councillor for two years. In Halifax, which has a special charter, the mayor is elected annually, the aldermen for three years, one-third being elected every year.

In New Brunswick the county councils consist of two councillors elected annually for every parish—except in special cases provided for by law—and of a warden appointed annually by the council. Cities have special acts of incorporation, and elect their mayor and aldermen.

In Manitoba the city councils consist of a mayor or head, and of two aldermen for each ward. The town council, of a mayor and two councillors for each ward. The village council, of a mayor and four councillors. A council in a rural municipality consists of the reeve (or head) and of such a number of councillors—not exceeding six, and not less than four—as the bylaw of the district may fix. Mayors, aldermen, reeves and councillors are annually elected by the ratepayers. One alderman for each city ward is elected each year for two years.

In Saskatchewan there is a department called the department of municipal commissioner. He acts as arbitrator between councils and has general superintendence in municipal matters. In cities, the councils consist of the mayor, elected annually, and not less than six nor more than twenty aldermen, whose term is fixed by bylaw but must not exceed two years; they receive \$3 per meeting or a maximum of \$150 per year. In towns, the councils consist of a mayor and six councillors, three being elected each year. In villages, the councils consist of three councillors, elected annually. In rural municipalities the councils consist of a reeve and one councillor for each division defined by the commissioner (municipalities comprise 324 square miles, and each division 54 square miles). Upon the petition of twenty-five residents, any territory not in a municipality, may be erected into a "district" under the "local improvements act." It must comprise not less than 108 nor more than 216 square miles of territory. It is governed by a council of from three to six members who elect their chairman.

In Alberta municipal matters are under supervision of the minister of municipal affairs. This province has passed laws similar to those in Saskatchewan.

CHAPTER II.

NATURE OF THE MUNICIPAL SYSTEMS OF THE PROVINCES—

Continued.

5. *How a Council Exercises its Powers.*—6. *Election of Councils.*
—7. *Heads and Officers.*—8. *Meetings.*—9. *Bylaws.*—
10. *Municipal Assessment or Taxation.*—11. *Borrowing
Powers of Councils.*—12. *Historic Origin of Names of
Municipal Divisions, etc.*
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5.—How a Council Exercises its Powers.

After this short summary of the municipal councils in each province we may now continue a review of the features common to the systems of all the provinces. The inhabitants of each of the municipalities described in the foregoing chapter, form a “body corporate” whose powers are exercised by their respective councils under the municipal law. The name of such corporate bodies is “the corporation of the county, city, town, etc.,” or, as in Quebec, “the municipality of the county,” or “parish,” or “town,” as the case may be. This legal name should be used on all occasions and in all documents affecting the corporation. The council—generally known as “the council of the city of Ottawa,” or “the county of Carleton,” as the case may be—has powers only within the limits of its municipal district, except in special cases where the law extends its authority. Its orders within its legal powers must be obeyed by all persons subject to its jurisdiction. It can acquire real and personal property by purchase, sell or lease the

same, enter into contracts, and sue and be sued in any cause and before any court like any private incorporated company or any individual.

6.—Election of Councils.

All councils are elected by the ratepayers in their respective municipal divisions ; that is to say, by electors rated on real or personal property on the assessment roll. In Ontario, Manitoba and British Columbia, farmers' sons resident with their parents can vote. In the majority of the provinces, all taxes must be paid before an elector can vote. In all cases, an elector must be a British subject, and with one or two exceptions, of the age of twenty-one, and not a criminal or insane. Widows and unmarried women, rated on the assessment roll, have for some years had a vote in Ontario, Alberta and Saskatchewan ; and in Manitoba and British Columbia, women who were taxed in their own right but now women have been given the same voting rights as men in Ontario, Manitoba, British Columbia, Saskatchewan and Alberta. Wardens, mayors, aldermen, reeves and councillors must be British subjects and property holders. They must take an oath or make a declaration of office and qualification before assuming their seats. The elections are held at such times as the law provides in each province—generally in the first part of January in each year. Nominations of candidates are made by a certain number of electors on a day fixed by the law before such elections. In all the provinces, except Quebec, the voting is by ballot. The laws of the provinces generally provide for the contestation of any municipal election on the ground of violence, fraud or corruption, or incapacity, or informality

in the proceedings. Corrupt practices can be severely punished. Judges, police or stipendiary magistrates, sheriff and sheriff's officers, jailers, constables, officers of the courts, officers of the councils, persons having contracts with a council, and the solicitor or attorney of the corporation, cannot sit in any municipal council of the provinces. In Ontario, Quebec, and some other provinces the disqualification extends to tavern-keepers and persons engaged in the sale of liquors by retail. In Quebec, British Columbia and Nova Scotia, clergymen cannot be elected; elsewhere they are exempt but not disqualified. All persons over sixty years of age, members of parliament, members of governments, all persons in the civil service of the crown, professors of universities, and teachers in schools, firemen and fire companies, are exempted from being appointed to a council or any other municipal office. In all these cases of exemptions and disqualifications the law in each province must be consulted, as it is impossible to give here more than those common to all the provinces.

7.—Heads and Officers of Councils.

The head of a council, as shown above (pp. 222-225), is a warden, or mayor, or reeve. He is the chief executive officer of the corporation. He presides over the meetings of the council, signs, seals, and executes, in the name of the council, all debentures, contracts, agreements or deeds made and passed by the corporation, unless the council otherwise provides. It is his duty to be vigilant in executing the laws for the government of the municipality; to supervise the conduct of all subordinate officers as far as lies in his power; to cause all positive neglect of duty

to be punished; to recommend to the council such measures as may conduce to the improvement of the finances, health, security, cleanliness, comfort, and ornament of the municipality. All heads of councils, as well as aldermen in cities are, by virtue of their office, justices of the peace within their respective municipal divisions as long as they are in office, for purposes arising under the municipal law. In Saskatchewan commissioners are appointed who act with mayors of cities to prepare estimates, etc., and submit matters to the council. Connected with every municipal corporation is a large body of officials, appointed in all cases by the councils, and holding their offices during pleasure. Such officers as clerks, and treasurers, are permanent in their nature, but the majority of the others, like assessors, valuers, auditors, road commissioners, or surveyors, pathmasters and pound-keepers, are, as a rule, appointed from year to year. The practice is to continue efficient men in office as long as they are willing to serve. The most important officer of every council is the clerk, whose duty it is to record the proceedings of the council, keep all the books, publish bylaws, and perform numerous other duties regulated by law or the bylaws or resolutions of the appointing body. The treasurer receives and keeps all corporation moneys, and pays out the same as the law or the regulations of the council direct. In Quebec and some other provinces the duties of clerk and treasurer are often combined in an official called a secretary-treasurer. One or more auditors, from time to time, review the accounts of all the receipts and payments of the officials of the municipality, and report to the council. Other important officers of councils are: solicitors, to advise the councils in all matters

of legal doubt or controversy ; engineers, in cities to look after public works like waterworks, sewage, and other matters of public necessity and convenience ; assessors, or valuers, or commissioners, to make annual lists of all the ratable property, on which the councils can fix the yearly rates levied on the taxpayers of a municipality ; collectors, to collect these taxes or rates and pay them to the treasurer ; fire wardens and firemen, for the prevention of fires ; fence viewers, or inspectors to regulate boundary and other fences ; poundkeepers, to receive and retain in safe keeping all stray animals, which may be restored to the owners on payment of expenses, or else sold by auction after a proper delay ; pathmasters, or road surveyors, or overseers of highways, to look after the condition of public roads, enforce statute labour, and perform other services in connection with the public roads and bridges. The council of any municipality may at any time by bylaw appoint other officers to carry out the provisions of any act of the legislature, or enforce a bylaw of the corporation. The law provides for the establishment of health officers and the taking of proper measures to prevent the spread of contagious or infectious diseases. Provision is made by the existing statutes for the appointment of constables in rural districts and policemen in cities for the preservation of peace and order, and the due execution of the law. Provision is made for the establishment in cities and towns of courts presided over by salaried police magistrates, and in many counties and rural districts there are similar officers usually called "stipendiary magistrates." Councils throughout Canada also make provision for the establishment and maintenance of jails, lock-ups, and city or

town halls in their respective municipal divisions, as the law in each case provides.

8.—Meetings of Councils.

The time for the first meeting of a new council is fixed by the municipal law of each province—generally some time in the first month of the year—but all subsequent meetings can be held in accordance with the regulations of each council unless otherwise provided. All meetings are held openly, except under special circumstances as defined by the regulations. The head of the council presides over meetings, and in his absence some member of the council, as the law or regulations order. He maintains order and decorum, but an appeal may be made to the council against his rulings. A quorum or a majority of the whole council is necessary for a meeting for the transaction of business, but a majority of such a quorum can pass any order, resolution or bylaw, or perform any other act within the powers of the council. As a rule open voting prevails, but in British Columbia the election of officers is by ballot. The regulations generally provide that no member can vote on a question in which he has a direct personal pecuniary interest—the usual parliamentary law in such cases. Minutes of proceedings of a meeting must be always read, confirmed, and signed by the chairman at a subsequent meeting. In the provinces of Ontario, British Columbia, Nova Scotia, New Brunswick, Alberta and Saskatchewan, the head of the council votes as a member, and when there is a tie or equality of votes the matter or question under discussion is lost or negatived. In Quebec he can vote on every question, and has also a

casting vote in case of a tie. In Manitoba he votes only when there is a tie. Select committees are appointed, as in parliament, for the consideration of special matters of municipal business, and they must report their results to the council. All the rules of councils are based on those of the house of commons and legislative assemblies of Canada. In all matters of doubt reference is made to the regulations and usages of parliament, directing the conduct of debate, divisions, and other matters of order and procedure.

9.—Bylaws of Councils.

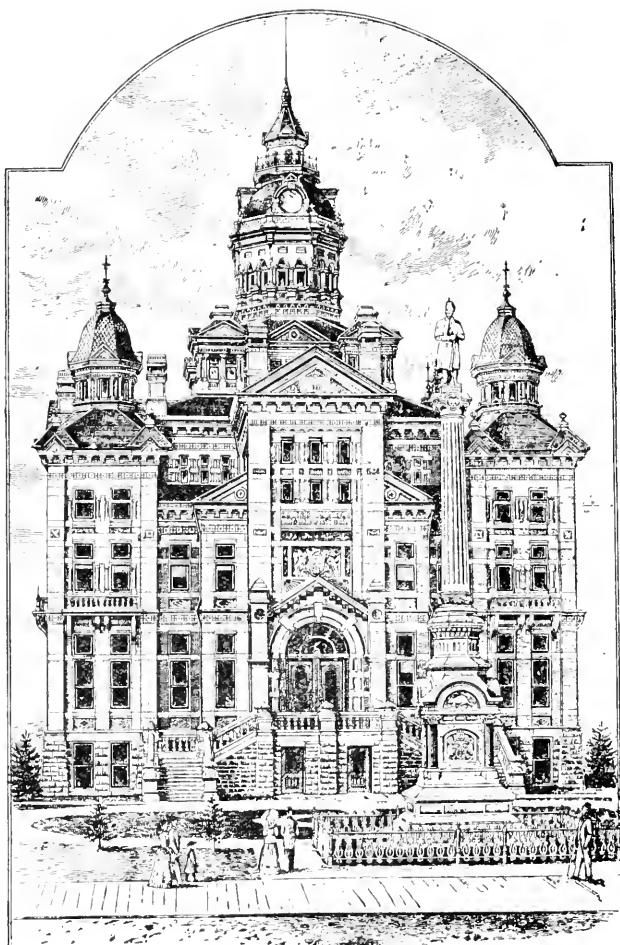
The legislative powers of all councils are exercised by bylaws when not otherwise provided by statute. * A bylaw is a special law of a corporation or municipality, which it has a right to pass in a certain form for a local or municipal purpose defined by the general statutory law establishing municipalities.

Every council may also make regulations for governing the proceedings of the council, the conduct of its members, the appointing or calling of special meetings, and generally all such other regulations as the good of the inhabitants of the municipality requires, and may repeal, alter or amend its bylaws. Every such bylaw, to have legal force, must be under the seal of the corporation, signed by the head, or by the presiding officer of the meeting at which it was passed, and by the clerk or secretary-treasurer of the corporation.

The power of passing bylaws gives to the various municipal councils of the provinces a decided legislative character. The subjects embraced within their jurisdiction are set forth with more or less detail in the

municipal acts of the majority of the provinces, especially of Ontario, Quebec, and the western provinces—those of Nova Scotia and New Brunswick being less perfectly defined. Generally speaking it may be said that, subject to certain limitations and formalities, the council of every city, town or incorporated village may pass bylaws for the construction and maintenance of waterworks, the amounts required to be collected under local improvement bylaws, licensing and regulating transient traders, the purchase of real property for the erection of public buildings thereon, cemeteries, their improvement and protection, cruelty to animals, fences, exhibitions and places of amusement, planting and preservation of trees, gas and water companies, shows, exhibitions, tavern and shop licenses, public morals, nuisances, sewage and drainage, inspection of meat and milk, the weight of bread, contagious diseases, fevers, prevention of accidents by fire, aiding schools, markets, police, industrial farms, parks, bathing houses, cab stands, telegraph poles, prevention of fires, construction of buildings, public libraries, charities and numerous other subjects immediately connected with the security and comfort of the people in every community.

Bylaws usually have to be printed and advertised in one or more newspapers, and posted in public places. In Alberta and Saskatchewan bylaws require three readings, and not more than two can be had at same sitting of council, thus preventing surprise. In case of aid to railways or waterworks, or the pledge of the municipal credit for certain other public purposes, defined in the municipal law of Ontario, Quebec and other provinces, a vote of the ratepayers and property holders must



CITY HALL, WINNIPEG.

be taken. In Ontario, where the law is very clear and explicit, the assent of one-third of all the taxpayers of a municipal division is required to give legal force to a bylaw giving aid in any shape to a railway or other company, or raising upon the credit of the municipality any money not required for its ordinary expenditures, and not payable within the same municipal year. In Ontario, British Columbia, Manitoba, Alberta and Saskatchewan, the vote is always by ballot. Any resident or other person interested in a bylaw, order or resolution of a council may take proceedings in the courts to quash the same for illegality. The reference of bylaws of municipalities to the ratepayers of a municipal division for their acceptance or refusal is the only example which our system of government offers of what is known in Switzerland as the *referendum* (reference) of laws to the vote of the people before they can come into operation.

10.—Municipal Assessment or Taxation.

The most important duty of every municipal council is the raising of money for local purposes by direct taxation. The burden of taxation is on real property—that is to say, on buildings, land, machinery, trees on lands, mines and minerals, except where they belong to the crown. In British Columbia, improvements on land are exempted up to a certain amount. Incomes are taxable in the majority of the provinces, and so are bonds, securities, and other personal property within the limitations fixed by the law in each case. The following classes of property are free from municipal taxation in the provinces generally: imperial, dominion, provincial and municipal property; Indian lands, churches,

parsonages, and lands immediately connected therewith (except in Manitoba); educational, charitable, scientific, and literary institutions; agricultural and horticultural societies; incomes of the governor-general and lieutenant-governors; household effects and tools in use. Small incomes are also usually exempted the limit being different in the various provinces the incomes of farmers are also usually exempt to encourage agriculture, Canada's principal industry. Special interests are also protected. For instance, in Ontario and Manitoba, the produce of the farm in store or warehouse on the way to sale, live stock and implements in use; in Nova Scotia and New Brunswick, fishermen's boats, nets and outfit to \$200. In Alberta and Saskatchewan, grain is exempted. But in all these matters of taxation there are so many differences in the provinces that it is impossible to do more here than refer generally to the subject. Reference must be had to the assessment laws of the provinces in all cases.

All municipal, local or direct taxes are raised and levied upon the real or personal taxable property according to the value given in the roll of the assessors, or valuers, or assessment commissioners appointed by each municipality in the different provinces for such purposes. The council of a municipality assesses and levies upon this taxable property a sufficient sum in each year to pay interest and sinking fund on debts and meet all legal expenditures. The laws of the provinces restrain, as far as practicable, the powers of the corporations in this particular, and any person can ascertain by referring to the general law governing municipal bodies, or to a special charter of a city or town, the extent of the

authority of a council in levying a rate and creating debt. In case a person considers he is rated too high on an assessment, or is treated exceptionally or unjustly, he can have an appeal to a court of revision, composed of members of the council as a rule, and finally to the courts—the county court in Ontario, Manitoba and Nova Scotia, and the circuit court in Quebec. In New Brunswick there is a board of valuers and in British Columbia a court of revision, and leave is given under certain circumstances to have recourse to the supreme court. In Nova Scotia there is an assessment court of appeal in towns, and thence to the council under certain conditions. In Saskatchewan and Alberta the appeals are taken first to the council, which acts as a court of revision, with the right to a subsequent appeal before a judge of the supreme court, with the exception of appeals in local improvement districts, which are specially provided for by the act governing the same.

11.—Borrowing Powers of Councils.

All councils have power under the formalities required by the law of each province to borrow money, and to levy special rates for the payment of such debts on the ratable property of the municipality. All bylaws for borrowing money must receive the assent of the ratepayers before they can be enforced. Municipal debentures—or legal certificates of a debt due by the municipality—can be issued to secure the repayment of sums borrowed in accordance with the strict provisions of the law governing such cases. All municipal property is liable for the redemption of such debentures and the payment of municipal liabilities.

12.—Historic Origin of Names of Municipal Divisions and of their Officers.

In the names of the municipal divisions and of the machinery of municipal administration, we see again some examples of the closeness with which Canadians cling to the names and usages of primitive times of English government. The "township" carries us back to the early days when our English forefathers lived in their village communities, of which the "tun" or rough fence or hedge that surrounded them was a feature. The chief officer or headman of this township was the reeve, a corruption of the Saxon "gerefa," a steward or superintendent. The "alderman"—from "ealdorman" or elder man—is a link connecting us with the early government of shires (for *shire*, see *above*, p. 189), and was an office of high dignity, still represented by the English lord-lieutenant of present times. In Ontario there remains in the legislative electoral divisions a district known as the "riding," which is a changed form of "thriding" or "triding," or a local district, used by the Danes for the divisions of Yorkshire. The ancient English shire, which was under an "ealdorman" for civil and military purposes, became a "county" in Norman times because a count (*comte*) or earl replaced the former functionary. Our representative body for the local government of a county is no longer called the "folk moot" but the "council," which comes to us from the Normans, who again adopted it from the Latin *concilium* (or a "collection" of people). The mayor was an important officer connected with the royal palace of France and has also come to us from Norman times—its original meaning of "greater" (*major*) having been

gradually applied to the principal officer of a local community or municipality. The "parish" has its origin in a Greek word, first applied in early English and French times to a "circuit" or district, presided over by a priest, and which for convenience sake was formed into a civil division. Bylaw means simply the law made for the government of a "bye," which was a name given by the Danes to the old English "tun" or township.

The rural municipal governments of Canada are very satisfactory, but the same cannot be said of the urban municipal governments, the government of the cities being very unsatisfactory. The explanation of this is that the vote in the rural municipal councils is controlled by the farmers and other leading men, while the councils themselves are composed of the best men and men of substance, who have a proper sense of duty and see that the taxes are wisely and honestly spent. On the other hand, in the towns and cities, the vote is controlled by the least intelligent and those of little substance, and who are therefore unable to decide what is best and care little how taxation is increased by extravagance or dishonesty. The management of a large town or city has become an exceedingly large and difficult business, requiring experience, training and a great deal of time. Leading business men cannot spare the necessary time from their own affairs, and the consequence is that the majority of those elected as mayors, controllers and aldermen, are men of little experience, using these offices as a stepping stone to higher public positions, or too often men who seek pecuniary profit. The unfortunate city or town is therefore liable to be mismanaged or robbed, or both. In the United States this has become

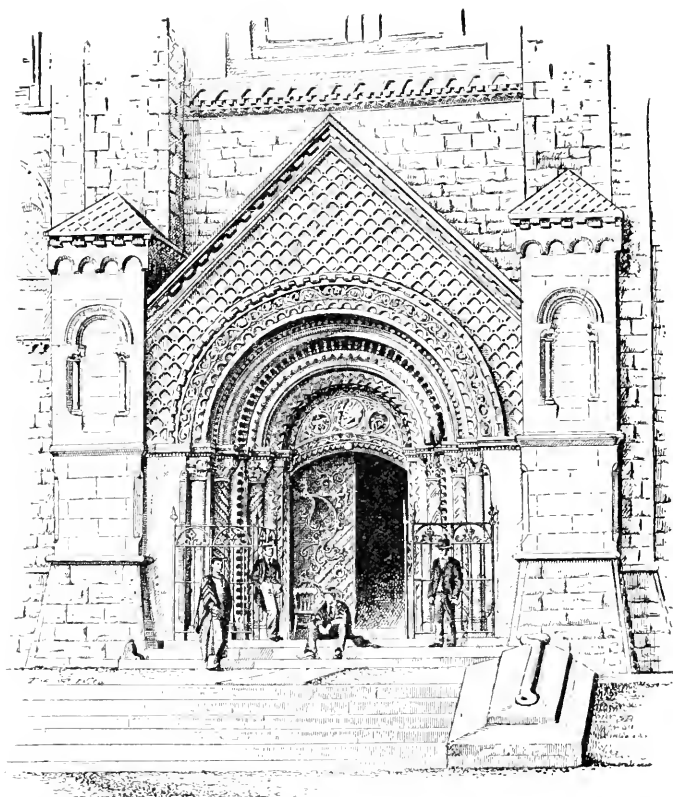
so notorious an evil that they have introduced what is called government by commission, a misleading term, for government by commission is in effect a government by a small number of properly paid experts, instead of a mayor and a large number of aldermen. This plan has proved a great improvement and a step in this direction has been taken in some provinces by providing for the election of a small body of men, generally four, usually called controllers, who with the mayor receive salaries and do most, if not all, the work. In several of the provinces one of the provincial ministers is minister or commissioner of municipal affairs, and exercises a certain control and supervision over the municipal corporations, preventing excessive borrowing of money, arranging for sanitary housing of the poor, and the proper laying out of the streets, and plans of the towns and cities. The people are at last realizing that it adds greatly, not only to the happiness of the citizens, but also to the welfare of the community, that the town or city should be beautiful, laid out, and properly provided with parks and public playgrounds. But there is a great deal to be done yet, and it is most important that everyone should do his duty as a citizen and as a Canadian in making the government of the town or city where he lives progressive, wise and honest.

SIXTH PART.

SCHOOL GOVERNMENT

IN THE PROVINCES.

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ENTRANCE TO TORONTO UNIVERSITY.

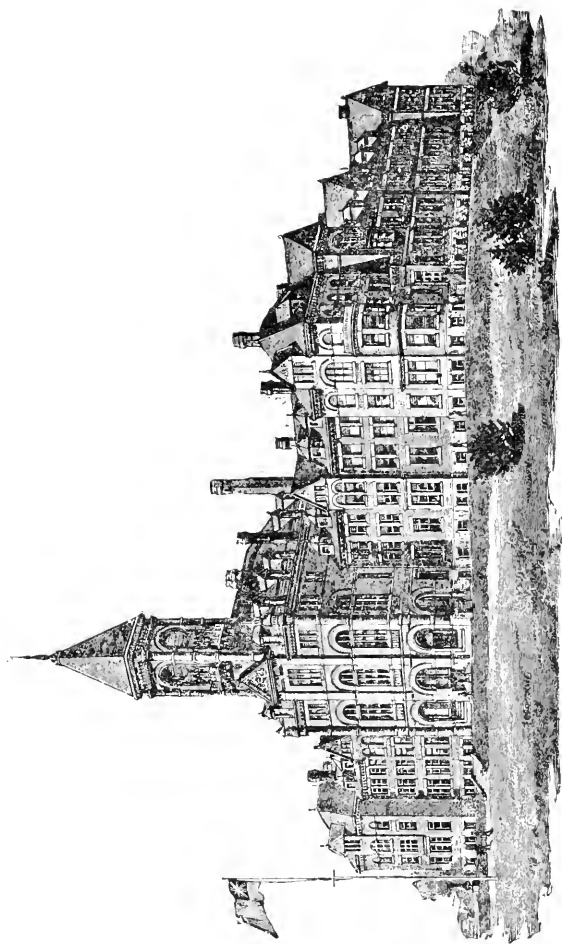
CHAPTER I.

THE PUBLIC SCHOOLS IN ONTARIO.

1.—Introduction.

Such a review of the institutions of Canada as I have attempted in this work would be imperfect if it did not include a summary, however short, of the leading features of the machinery that regulates and governs the educational system of each province. Education is necessarily the foundation of active citizenship and good government.

From the following summary of the machinery of school government in all the provinces it will be seen that it is based on the following principles: a general supervision of education in every province by a department of education, and contributions from the provincial funds for the support of public schools free to all classes of the people; this supervision is exercised by means of government superintendents and inspectors, appointed by the provincial government to visit and report on the condition of the schools of every county; the provincial grant is supplemented by such contributions from the inhabitants of every school district as the law provides in each case; assessments for this purpose are levied, generally speaking, in connection with the municipalities in each province; every school district



UPPER CANADA COLLEGE, TORONTO.

manages its schools and funds through trustees or commissioners elected by the ratepayers. In this way the government of a province and every municipal district are directly identified and co-operate with each other for the support and development of the education of the people.

2.—The Public Schools in Ontario.

In this province there is a department of education, which is a department of the government, with a provincial minister as a head, entrusted with the administration of an excellent school system. That system comprises three main features of elementary, secondary, and higher education; the kindergarten, public and separate schools, continuation schools, technical schools, high schools, and collegiate institutes, and the university, all representing a complete organization. A child enters the kindergarten or children's garden*—German in its origin—at perhaps four years of age, the public school at six, and the high school at thirteen. After four or five years' close study at the high school or collegiate institute he passes after examination into the university, where he can obtain the degree of bachelor of arts, and honours according to his ability and proficiency at the end of four years. The public and high schools and the university are undenominational, but the law enables Roman Catholics to establish under certain conditions common schools for themselves. Separate high schools are not provided for in the school law. The term "separate schools" applies also to Protestants and coloured

* The name of this pleasant method of imparting education to very young children was given by Friedrich Froebel, a German teacher, who introduced the system in rooms opening on a garden.

persons, but as a matter of practice the exception to the general principle of the common school system is confined almost exclusively to Roman Catholics.

In addition to the schools mentioned above, there are also under the direction of the department: model schools and provincial normal schools for the training of teachers, while the highest class of teachers receive a thorough professional training in the faculties of education at Toronto and Queen's universities, which receive subventions for this purpose, and work under agreement with the minister of education. The educational association and teachers' institutes perform a useful work in the same direction. Provision is also made for the establishment of art schools. Children who may be vicious or immoral can be sent to industrial schools.

By the law all children between eight and fourteen are obliged to attend school for the full term during which the school is open. The minister of education, with the aid of a large staff, has the general direction of all the educational forces of the country. Inspectors of high and continuation schools, separate schools, and schools in the newer districts are appointed by the government. County inspectors are appointed by the county councils, and city inspectors by the city school boards, from persons having high qualifications as teachers as determined by the regulations of the department.

Provision is made for the support of education by the government and the municipalities. Counties are under obligation to make grants of money to high schools, and both counties and townships must aid public schools. Each township is divided into sections, each of which is

provided with a public school, managed by a board of three trustees who hold office for three years—one going out of office annually, when a successor is appointed. A grant is given by the government to each school on a basis fixed by regulation. In addition, the township council must vote a grant of \$300 (or \$500 if two teachers are employed) to each school when the average assessed value of the school section in the township is at least \$30,000. Cities, towns and incorporated villages also receive a legislative grant, and the municipal councils raise the balance at the request of the board of trustees, which consists of six or more elected members, two from each ward, of whom one retires annually. If the board so decides, the elections may be by ballot, and on the same day as the municipal elections. The trustees select the teachers—all of whom must have certificates of qualification,—determine the amounts to be expended for school sites, buildings, equipments and salaries, and supervise the school affairs generally of their special division. The separate schools are all under government inspection, and are generally conducted under the same regulations as the public schools. All public schools are free. High schools are established by the county and city municipalities, with the approval of the minister. High schools may, with the approval of the minister, become collegiate institutes if they can come up to the high conditions imposed by the law. Government grants to these institutions of superior education are mainly based on the efforts of the locality. Except in the case of cities and towns separated from the county, the county council must vote a grant at least equal to that of the legislature.

After the county and legislative grants have been received, any further amount required in addition to the fees paid to meet the cost of maintenance must be made up by the municipality or district where the high school is situated on the requisition of the board of trustees. Each board consists of at least six trustees and, except in the case of cities and towns separated from the county, three of these are appointed by the county council, and three by the council of the town or village where the high school is situated. If the district is composed of more than one municipality, then each is represented on the high school board. In towns separate from the county, all the trustees are appointed by the town council. In cities, the council also appoints the trustees, and if two high schools are established, twelve trustees are appointed. Each trustee holds office generally for three years.

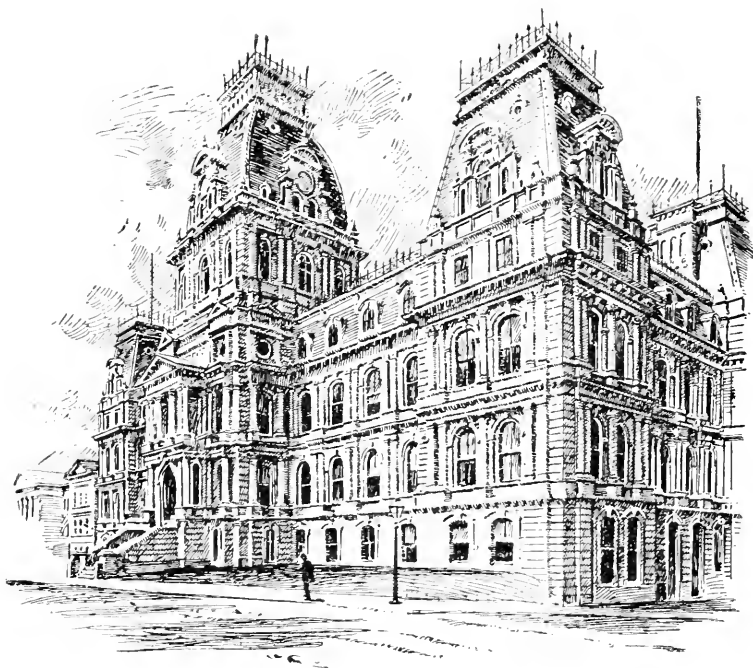
Liberal provision is made in the law for the establishment of efficient libraries and the teaching of the principles of agriculture in the public as well as the high schools of the province.

High school trustees and members of boards of education cannot hold positions in the municipal councils of the municipality or county in which those schools are situated.

Church doctrines are not taught in the public schools, but the principles of christianity form an essential feature of the daily exercises. Every public and high school is opened and closed with prayer and the reading of the Scriptures, but without comment or explanation. The trustees and clergy, however, of all denominations

are empowered to make special arrangements for religious instruction to the pupils of their own particular church at least once a week, after the close of the school in the afternoon. No pupil is required to take part in any religious exercise objected to by his parents or guardians.

The highest institution of learning controlled by the provincial government is the university of Toronto, whose property is vested in a board of governors, appointed by the government. All appointments are made by the board, and all statutes of the senate regulating the institution must receive the approval of the same. A number of universities and colleges in the province—at present twelve in all—are “federated” with the university. All colleges so federated participate in all the advantages that the university offers. A university so federated ceases to exercise its own powers of conferring degrees except in divinity. The university confers degrees in arts, agriculture, law, medicine, dentistry, science, and civil engineering. The degrees conferred give all recipients the standing of *alumni* (graduates) of the provincial university.



CITY HALL, MONTREAL.

CHAPTER II.

THE PUBLIC SCHOOLS IN QUEBEC.

3.—The Public Schools in Quebec.

In the province of Quebec there is a department of education composed of a superintendent and a council of public instruction with two secretaries. The superintendent is a non-political head, appointed by the lieutenant-governor in council. He is a member of the council, and its president by virtue of his office. The council is made up of Roman Catholic and Protestant members, and divided into two committees, one Roman Catholic and one Protestant, for the purpose of supervising their respective educational affairs. The two committees meet separately and exercise independent action in reference to all matters which concern the educational work under their respective control. Each appoints its own chairman and secretary. One of the two secretaries of the department is a Protestant. The superintendent is a member of each committee, but he votes only in the one to which by religion he belongs. The schools are Roman Catholic and Protestant—the separate schools being known as “dissentient”—and religion is considered as the basis of education. The clergy of the Roman Catholic church and of other denominations consequently take a leading part in the management of education, and are largely represented on

the two committees of the council. School inspectors, with qualifications defined by the law, are appointed for one or more counties of the province by the government, and must conform to the regulations of the council. Roman Catholic and Protestant boards of examiners examine and grant certificates or diplomas of qualification to teachers.

The educational institutions of the province are divided into elementary schools, model schools, academies or high schools, and normal schools. In each municipality, village, town and city, there are public schools for the elementary education of youth, under the control of school commissioners, or trustees in the case of dissentient schools established for the religious minority there. These are elected by the proprietors of real estate paying taxes or monthly fees. Each municipality is divided into school districts. Each municipality elects five commissioners, or three trustees, who hold office generally for three years, and form a body corporate for the administration of school affairs, two or one respectively going out each year. No school teacher can be a commissioner or trustee in his own municipality or a contractor for a corporation of which he is a member. These commissioners and trustees appoint teachers, acquire and sell property for school purposes, and cause to be levied by taxation the sums necessary for the support of schools. In all places where a valuation of property has been made by the municipal authorities, it serves as the basis of the taxes to be imposed on the authority of the school law. Otherwise three valuers are appointed by the commissioners or trustees. Each school board has a secretary-treasurer appointed by the same to act as clerk and treasurer. He

collects and pays all moneys due to and payable by the corporation. Trustees of dissentient schools have the same powers and duties as commissioners of schools for the religious majority. They alone have the right of imposing and collecting the taxes upon the dissentient inhabitants.

To entitle a municipality to a share of the legislative grant—the “common school fund”—made for the support of education, it must furnish proof that its schools have been in operation during the school year, and attended by a certain number of children. The superintendent pays the respective shares of the common or provincial school fund to the several boards of commissioners or trustees in two semi-annual payments. The public moneys are distributed among the municipalities according to population.

The government provides for the establishment of Roman Catholic and Protestant normal schools, and appoints their principals and teachers on the recommendation of the respective committees of the council. Roman Catholic and Protestant academies, model or superior schools managed by trustees, also receive government aid on the recommendation of the same committees, and with the approval of the lieutenant-governor in council. In the same way grants are also made to universities, colleges, seminaries, and educational institutions other than elementary schools. Such institutions receive aid in the relative proportion of the Roman Catholic to the Protestant populations of the province according to the last census.

CHAPTER III.

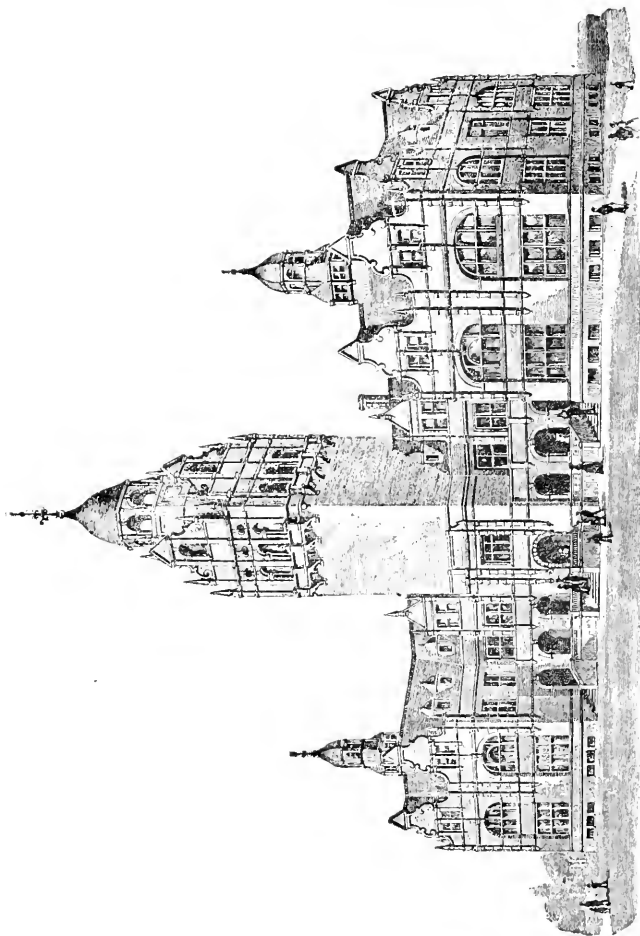
THE PUBLIC SCHOOLS IN NOVA SCOTIA.

4.—The Public Schools in Nova Scotia.

In this province the members of the executive council (*i.e.*, the Provincial Government) form a council of public instruction with extensive powers of general direction and administration. A superintendent of education is also appointed by the government to have a supervision of educational matters and to act as secretary of the council. An advisory board of seven members, two of whom are elected biennially by the teachers of the province, is created to assist the council and superintendent. Inspectors of schools are appointed by the council of public instruction on the recommendation of the superintendent. A normal college is supported by the government, and the council appoints the principal and his assistants. All the public schools of the province are undenominational. The public school system provides for the free education of all persons from the age of five years upwards, in a prescribed course of study extending from the kindergarten or primary grade of the common or elementary schools to the end of the secondary courses of the high schools. The high school system is virtually a provincial university of high school grade, and every academy and high school an affiliated college, the diplomas being granted on the report of the

provincial board of examiners. These certificates form the bases of the scholarship qualifications for teachers' licenses, and for matriculation into colleges and the universities.

The province is divided into districts, with a board of seven or more commissioners for each, appointed by the council. These commissioners determine the boundaries of school sections—the smallest territorial division—establish new ones with the approval of the council, and adjudicate on matters specially connected with the same over a district which, on the average, is perhaps equal to half a county of the province. Each school section in a county has an executive board of three school trustees, whose duties are the same as in Ontario and other provinces. They are elected by the ratepayers of their respective sections. No commissioner, inspector or teacher can be elected a trustee. Each board has a secretary-treasurer to collect and disburse all school moneys. Teachers duly licensed by the council of public instruction, are employed by the board, and receive aid from the public treasury out of the sum annually voted by the legislature for schools. They are graded into five classes and paid according to their qualifications and to the number of days the schools have been in session. Municipalities must annually vote a certain amount as provided in the law for the support of schools. The sum required by a section above the provincial grant and the annual rates raised by the municipality is determined by the majority of the ratepayers of the section at a school meeting regularly called for that purpose. One high school in each county on condition of its sufficient equipment and free admission



HARBOR STREET COLLEGIATE INSTITUTE, TORONTO.

of qualified students from any part of the county, receives an extra grant (academic), and is known as the county academy. Ratepayers at a public meeting, as provided by law, decide the amount to be raised by the section to supplement the sum granted by the province and municipality. Inspectors visit each school and county academy at least yearly. The attendance at school is stimulated by making the greater part of the municipal fund payable in proportion to the attendance. There is also a local option law by which a majority of the qualified voters at an annual school meeting may make the attendance of all children between seven and fourteen compulsory within certain limits in rural sections.

An incorporated town forms one school section, and the control and management of public schools are vested in a board of five commissioners, three of whom are appointed from the members of the council, and two by the government. The former are elected annually but at every annual selection at least one of the three persons previously chosen shall, if there be one remaining in the council, be appointed. The government commissioners remain in office for three years. The town clerk is secretary and treasurer of the board. Attendance between the ages of six and sixteen is compulsory in cities and towns, but exemptions are made under certain conditions in cases of children above twelve and thirteen years of age.

In the city of Halifax there are twelve commissioners, six chosen by the lieutenant-governor in council, and six by the city council.

The regulations are well calculated to secure to every child a free education.

A provincial college of agriculture, a technical college, mining schools at coal mining centres, schools for the deaf, blind, feeble-minded, and incorrigible also add to the effectiveness of the public free school system of Nova Scotia. Local evening technical, rural science, mechanic science and domestic science schools, and for art, the Victoria School of Art and Design, are also provided.

CHAPTER IV.

THE PUBLIC SCHOOLS IN NEW BRUNSWICK.

5.—Education in New Brunswick.

The public schools of New Brunswick are free and non-sectarian. School privileges are provided free to all children resident in a district, between the ages of six and twenty years.

The Board of Education.—The board of education, with the chief superintendent of education as its secretary, is in supreme control of the public schools of the province. The board is composed of the lieutenant-governor, the members of the executive council, the chancellor of the university of New Brunswick, and the chief superintendent of education. Three members of the executive, with the chairman (who must be the lieutenant-governor, or, in his absence, the premier), and the chief superintendent of education, constitute a quorum.

Courses of Instruction.—The common school course includes the first eight grades of instruction. The high school course provides for work beyond the eighth grade, and prepares students for matriculation into the university.

School Districts.—School districts are established, and their boundaries defined by the board of education. A rural school district must contain an area of at least

three and one-half square miles, or must have at least fifty children of school age.

Each city and town is usually a school district.

In rural districts, schools are under the control of a board of trustees, consisting of three ratepayers of the district. The trustees are elected by the district for a term of three years. In cities and towns, the boards of trustees consist of from nine to eleven members, the majority of whom are appointed by the city or town council, and the remainder by the executive council of the province. In cities and towns, two of the members of the board may be women, one appointed by the city or town council, and one by the executive council.

The school year technically begins on the first day of July, and ends on the thirtieth of June, and is divided into two terms, one beginning about the twenty-sixth of August, and ending the Friday preceding the week in which Christmas falls; the other beginning early in January, and ending the thirtieth of June. There are eight weeks vacation in summer, beginning the first of July, and two weeks in winter, between terms. There is also an Easter vacation extending from Good Friday, until the following Wednesday. There is a compulsory attendance law on the statute book, which becomes operative only when adopted at the annual school meeting, which is held on the second Monday in July, or when adopted by the city or town council in urban school districts.

Support of Schools.—Schools are supported from three sources, viz., government grants, county fund grants, and by local district assessment. The county fund is provided

for by municipal assessment, and is a sum equal to sixty cents per head on the population, according to the last decennial census. The trustees receive from the county fund thirty dollars per year for each school or department in operation the full term. The balance of the county fund is distributed among the schools of the county pro rata, according to the attendance of a school as compared with that for the county.

Government Grants.—Government grants are paid as follows :—Legally qualified teachers employed in schools supported and conducted in conformity with this chapter are paid from the provincial treasury, according to the following rates for the school year. Male teachers of the first class, for the first two years one hundred and thirty-five dollars per year; after two years and up to the end of seven years, one hundred and fifty dollars per year, and after seven years, one hundred and seventy-five dollars per year; of the second class, one hundred and eight dollars per year, for the first two years, after two years and up to the end of seven years, one hundred and twenty dollars, and after seven years, one hundred and forty dollars; of the third class, for the first two years, eighty-one dollars per year, after two years and up to the end of seven years, ninety dollars per year, and after seven years' service, one hundred dollars per year. Female teachers of the first-class for the first two years, one hundred dollars per year, after the first two years and up to the end of seven years, one hundred and ten dollars, and after seven years, one hundred and thirty dollars per year; of the second class, for the first two years, eighty-one dollars per year, after two years and up to the end of seven years, ninety dollars, and after

seven years, one hundred and five dollars per year; of the third class, for the first two years, sixty-three dollars per year, after two years and up to the end of seven years, seventy dollars per year, and after seven years' service, eighty dollars per year; assistant teachers, if provided with a classroom, separate from the school-room, but within the same building, and regularly employed at least four hours each day, shall receive one-half the foregoing sums, according to the class of license; and the amounts named shall be paid half-yearly and ratably, according to the time the teacher or assistant has satisfactorily taught in the schools during the school year.

The principal of a superior school receives two hundred and fifty dollars to two hundred and seventy-five dollars, government grant, per annum, and the local school district must also pay not less than this amount to the teacher.

The principal or teacher of grammar school grades in a grammar school, receives a government grant of from three hundred and fifty dollars to four hundred dollars per year, conditioned upon the district paying an equal amount.

All other funds for schools must be provided by direct taxation upon the local school district.

Grammar and Superior Schools.—The law provides for the establishment of one grammar school in each county. Fourteen of the fifteen counties of New Brunswick operate grammar schools. Grammar schools must provide for instruction in Grades IX., X. and XI. A grammar school is free to all pupils resident in the

county in which it is situated, above Grade VIII. of the graded school course. Only one grammar school in the province, that at St. John, provides for a four years' course.

One superior school may be established in each county for every six thousand inhabitants, or a majority fraction of six thousand. An additional superior school may be established on the recommendation of the school inspector. A superior school may be required to provide instruction in the high school grades IX., X. and XI. There are about fifty superior schools in the province. A superior school is free to all pupils residing within the parish in which the school is established, above Grade VI. of the graded school course.

Consolidated Schools.—Consolidated schools have been established at Riverside, Florenceville, Hampton, Kingston and Rothesay. A consolidated school district must include not less than three rural school districts, and must provide for instruction in household science, manual training, and school garden work. These schools are supported in the same way as other schools, by government and county fund grants, and by local assessment. In addition to these grants, a consolidated district receives a special government grant, usually one thousand dollars per annum. Children are conveyed from remote parts of the district in vans, provided by the district, and the government pays one-half the cost of conveyance.

Manual Training and Household Science Teachers.—Manual training and household science departments are operated by school boards in a number of the cities and towns outside of the consolidated schools. The

government pays one-half the cost of the equipment of manual training and household science departments, also one-half the cost of the initial supply of materials. Household science and manual training teachers who devote their whole time to the work receive a government grant of two hundred dollars per annum. Teachers who teach these subjects not less than three hours per week, in addition to the regular work of the school, receive a government grant of fifty dollars per annum.

Inspection.—The province is divided into eight inspectorial districts, with one school inspector for each district. It is his duty to visit all ungraded schools in his district once in each school term, and each graded school or department, once in each year. He is required to make monthly reports of the visitation of schools to the education department, and generally to assist the department in promoting educational efficiency in the schools of his district.

University of New Brunswick.—The public school course of the province leads up to, and is completed in the University of New Brunswick, which is supported largely by government grants, together with fees from students and from endowments held by the university. It is located at Fredericton. Its governing body is called the senate of the university, and is composed of fourteen members, nine of whom, including the president, and chancellor, are appointed by the lieutenant-governor in council; four are elected by the Associated Alumni of the university, and one is elected by the educational institute of New Brunswick. The president and chancellor are permanent members of the senate; the others hold office, some for two and others for three years. The

chief superintendent of education is ex-officio president of the university. The chancellor of the university is the chairman of the faculty, and the administrator of the affairs of the university. He is appointed by the lieutenant-governor in council. The senate of the university appoints the professors and other officers, and fixes their salaries.

The university provides a four years' course for degrees. Students of both sexes are admitted to the arts course on equal terms. The matriculation or entrance examinations may be passed either at the departmental examinations held under the board of education in July, or at the opening of the university in September. The student making the highest standing in any county, in the July examination, receives the scholarship of sixty dollars for that county. The degrees conferred by the university are : bachelor of arts (B.A.), master of arts (M.A.), bachelor of science in the arts course (B.Sc.), master of science, in the arts course (M.Sc.), bachelor of science in civil engineering (B.Sc.), master of science in electrical engineering (M.Sc.), bachelor of science in forestry (B.Sc.), doctor of philosophy (Ph.D.), doctor of science (D.Sc.), bachelor of civil law (B.C.L.), doctor of civil law (D.C.L.), and doctor of laws (LL.D.).

Normal School.—Normal and model schools for the training of teachers are provided for by the board of education. They are located at Fredericton. Teachers entering for a class higher than the third, or lowest class, must attend the normal school for at least one school year. The normal school year begins the first of September, and ends about the first of June.

Examinations for third class licenses are held twice a year in Fredericton, beginning on the Tuesday preceding the week in which Christmas falls, and on the Tuesday preceding the last Friday of May.

Examinations for teachers' licenses of the higher classes are held annually at Fredericton, St. John and Chatham, beginning on the second Tuesday in June. All students must pass the entrance examination for the class of license for which they wish to enter, before being admitted to the normal school. They must be seventeen years of age before being admitted.

Entrance examinations for the normal school are held annually at various places throughout the province, beginning on the first Tuesday in July. Applications for admission to these examinations must be forwarded to the school inspector not later than the twenty-fourth of May. A fee of one dollar is charged for admission to the normal school entrance examinations.

Matriculation examinations are held at the same time, and places, as the normal school entrance examinations. A fee of two dollars is charged for admission to these examinations. The matriculation examination admits to the normal school as well as to the university of New Brunswick.

School Gardens.—This department of work is chiefly under the control and direction of the department of agriculture, and government grants are made to teachers and trustees of districts in which school gardens are maintained, from the moneys provided for agricultural education. The work is supervised and directed by an official called the director of elementary agricultural

education. Agricultural schools for the qualifying of teachers are held annually at Woodstock and Sussex.

Any board of school trustees that provides for and satisfactorily maintains instruction in elementary agriculture, with a school garden, in accordance with the course prescribed by the board of education is entitled to receive a special grant of fifty dollars per year for the first year, and thereafter thirty dollars per year.

A partial course certificated teacher, who carries on this work satisfactorily, receives a grant of thirty dollars per school year, and a full course certificated teacher receives fifty dollars per school year.

Grants paid to both teachers and school boards, must be approved and recommended by the director of elementary agricultural education.

CHAPTER V.

THE PUBLIC SCHOOLS IN PRINCE EDWARD ISLAND.

6.—The Public Schools in Prince Edward Island.

The general supervision of education is given by the law to a provincial board, composed of the members of the executive council (*i.e.*, the Provincial Government), the principal of the Prince of Wales College, and the chief superintendent of education, who acts as secretary. The superintendent is appointed by the lieutenant-governor in council, and duly qualified inspectors, who have to visit each district half-yearly, by the board of education. A normal school is now amalgamated with Prince of Wales College. The principal and assistants of the college and normal school are appointed by the lieutenant-governor in council. The grades are primary, advanced, and high schools. They are free to all children between five and sixteen years, and non-sectarian. Teachers are required to open the schools with the reading of the Holy Scriptures by children without comment or explanation, but no children are required to attend if their parents or guardians object to this reading. Teachers must hold a license from the board of education—attendance at one term of the provincial training school being one of the qualifications. The salaries are provided for by a provincial grant, and

by district assessment when it is necessary to increase the former allowance. All other expenditures are met by local or district assessment, and loans for seven years may be raised to pay the cost of new school-houses. At the annual school meeting of a district three trustees are elected for three years—one member retiring each year. No teacher in active employment can act as trustee. In the city of Charlottetown, and town of Summerside, the board of trustees consists of seven members, of whom the lieutenant-governor in council appoints four, and the council of each place appoints three—all of whom hold office during pleasure. All the boards of trustees appoint a clerk or secretary, who acts also as treasurer or accountant. All accounts and payments are duly audited—two auditors being appointed by the councils of Charlottetown and Summerside, and one elected by a school district in other cases. The duties of trustees are the same as those in Ontario and other provinces.

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CHAPTER VI.

THE PUBLIC SCHOOLS IN MANITOBA.

7.—Public Schools in Manitoba.

The department of education is a department of the civil service presided over by a minister of education, who determines the duties of school inspectors, prescribes forms for school registers and reports, provides for normal schools and secondary schools, arranges for the examinations of teachers and the issuing of certificates, prescribes the number of teaching days in the year, and has power to arrange for the printing and publication of text-books, etc., and for their free distribution to the pupils of the public schools.

The lieutenant-governor in council appoints and fixes the salaries of inspectors, normal and model school teachers and other officials of the department.

An advisory board of twelve members—partly appointed by the lieutenant-governor in council and partly elected by the public and high school teachers and school inspectors—determines the qualifications of teachers and inspectors, prescribes forms of religious exercises, makes regulations for the plans, equipment and ventilation of school houses, authorizes text-books and books of reference, appoints examiners and performs other important duties.

Inspectors cannot act as teachers or as trustees of a public or high school. All education has been free and undenominational since 1890, before that time the Roman Catholics had denominational schools. In rural school districts a child may enter school at the age of five, and in cities, towns and villages at the age of six, and all children between the ages of five and sixteen or six and sixteen, as the case may be, are counted as being of school age. All children between the ages of seven and fourteen years are required to attend school regularly. Religious exercises are conducted according to the regulations of the advisory board, but children whose parents object need not remain. Provision is made for religious teaching between the hours of half-past three and four o'clock in the afternoon, if authorized by the school trustees in accordance with the act.

The affairs of rural school districts are managed by a board of three trustees, each of whom serves for three years, one retiring each year, while in cities, towns and villages which are divided into wards, two trustees are elected for each ward for a period of two years, one retiring each year.

The public schools are supported by grants from the legislature supplementing the interest on the endowment created by the sale of public lands set apart for school purposes by the dominion government, by grants from a general fund created by a tax on the whole municipality and by a special tax levied on the ratepayers of the districts under the conditions provided in the law. The taxes are levied by the municipal council on the requisition of the trustees. Secondary schools for more advanced education are maintained in nearly all the

school districts which embrace a city, town or village within their limits. Normal schools have been established at four centres and provision is made for annual elementary normal courses at two other centres. All teachers must hold certificates granted under the regulations of the advisory board; professional certificates are graded as third class, second class or first class. The second class professional, which is the lowest grade of permanent license, requires attendance at a normal school for one year, and applicants for admission must hold second class non-professional certificates.

The university of Manitoba is a provincial institution under the direction of a board of governors appointed by the lieutenant-governor in council. A council in which the various colleges, affiliated with the university, the graduates of the university and the provincial government have representation, has charge of the academic work. Provision is made for appeal to the board of governors from any decision of the council. Instruction is provided in medicine, engineering, arts, law, pharmacy, etc., and the provincial college of agriculture is affiliated with the university.

CHAPTER VII.

THE PUBLIC SCHOOLS IN BRITISH COLUMBIA.

8.—The Public Schools in British Columbia.

In this province the minister of education and the other members of the executive council (*i.e.*, the Provincial Government) constitute a council of public instruction. The government appoints a superintendent of education, who is also secretary of the council. The schools are free and undenominational, but it is provided that "the highest morality shall be inculcated" and the Lord's prayer may be used at the opening or closing. A provincial board of examiners grants certificates to teachers, which must always be signed by the superintendent. The council appoints two or more qualified inspectors. Schools are divided into common, graded, and high schools. Two provincial normal schools have been established, one at Vancouver, the other at Victoria. In each rural district there is a board of three trustees elected by the householders and freeholders, and their wives. In municipal districts there is a board of seven to three trustees, according to the number of pupils, elected by duly qualified electors. To each board is attached a secretary-treasurer to collect and disburse moneys for school purposes. Schools are supported entirely by the government in rural "assisted" districts.

In city and rural municipalities the salaries of teachers and all other expenses incurred by the trustees are borne and paid by the municipal corporations. The government pays a grant of from \$460 to \$580 a year, based on the number of teachers employed, to each city. Every child from seven to twelve must attend some school or be otherwise educated for six months in every year.

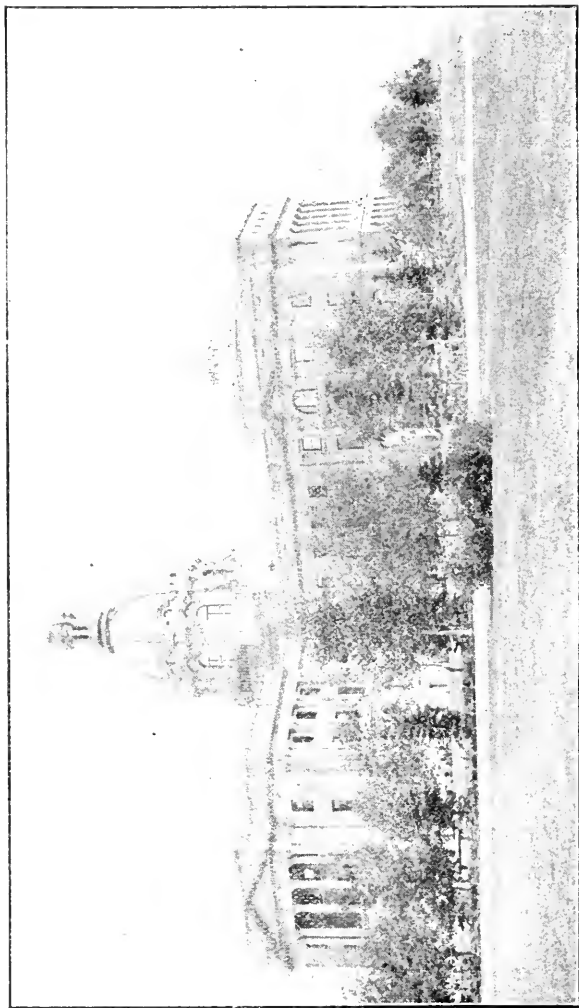


Photo by P. A. LLOYD, Edmonton, Alta.

ALBERTA LEGISLATIVE BUILDINGS, EDMONTON

CHAPTER VIII.

SCHOOLS OF SASKATCHEWAN AND ALBERTA.

9. *Introduction.*—10. *Schools in Alberta.*—11. *School System of Saskatchewan.*—12. *Educational Council.*—13. *School Districts.*—14. *Separate Schools.*—15. *Language and Religious Instruction.*—16. *Teachers.*—17. *How Schools are Supported.*—18. *The School Attendance Act.*—19. *Higher Education.*
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9.—Introduction.

Prior to the establishment of the provinces of Alberta and Saskatchewan, the Northwest Territories of Canada out of which these provinces were formed had already constitutionally reached the status of responsible government and had developed a very creditable system of education. The influence of this common parentage is still quite evident, notwithstanding the divergence which has inevitably occurred during the brief history of these provinces.

As small schools more or less primitive with respect both to buildings and courses of study followed closely in the wake of settlement, a Council of Public Instruction was organized and to it was entrusted the administration and development of these schools. As population increased and appointed councils gave place to representative legislative assemblies, the council grew into a department of territorial government known as the department of education. Meantime the prescribed courses of studies, which originally attempted to provide

only for the mere essentials of a public school education, were gradually extended both in regard to the number and scope of the subjects of instruction.

The system of education in both provinces is based on the same statutes, but statutory amendments and departmental regulations passed since the provinces were formed tend to give to each its distinctive characteristics.

The Alberta Act and *The Saskatchewan Act* which brought into existence the sister provinces, came into force on September 1st, 1905, and provide that section 93 of the *British North America Act*, which refers to education, shall apply to these provinces, with some slight changes to meet the existing conditions. The rights granted to the people of this territory by chapters 29 and 30 of the Northwest Territories ordinances of 1901, with respect to separate schools and religious instruction in the schools, are thus protected and preserved.

10.—Schools in Alberta.

The branch of the public service to which is entrusted the administration of all educational matters within the province is the department of education. The member of the executive council who presides over this department is designated the minister of education. He directs and oversees the officers, clerks and other employees of the department, and determines its policy. His department has the control and management of all kindergarten schools, public and separate schools, normal schools, technical schools, teachers' institutes, and the education of deaf, blind and mentally defective children. The minister, subject to the approval of the lieutenant-

governor in council, regulates the organization and operation of all state schools within the province, the construction and equipment of school buildings, the arrangement and care of school premises, the examination, training, licensing and grading of teachers, the nature and scope of all courses of studies in the various classes of schools, the authorization of text and reference books, the organization of educational associations and the holding of teachers' conventions, the maintenance of school libraries and the inspection of schools.

The administrative unit of the educational system of Alberta is the school district. A district usually includes an area of approximately four miles square, and may be organized on the initiative of the ratepayers as soon as the area proposed to be formed into a district contains eight resident children of school age and four resident ratepayers. Subject to the school laws and the regulations of the department the affairs of each school district are administered by a board of trustees elected by the resident ratepayers. In every rural or village district the board consists of three members who hold office for three years, and retire in rotation. In a town district the board consists of five members elected for two years. In cities the number of school trustees may exceed five, should the respective city charters provide for such increase. While school districts are, as a rule, formed upon the initiative of the resident ratepayers, the minister is vested with power to establish a district, should the residents, through indifference or opposition, fail or refuse to provide school facilities where such are required.

Among the specific powers conferred on the minister of education is the authority to appoint an official trustee

to conduct the affairs of any school district; and any such official trustee possesses all the powers and responsibilities devolving upon a board of trustees and its officers. Should the resident ratepayers of a school district fail to elect a board, or should an elected board prove incapable of conducting the affairs of a district through inefficiency, indifference, or any other cause, the appointment of an official trustee automatically retires the members of the board and places such official in full control of the affairs of the district, subject however, in all cases, to the provisions of the school law and the regulations of the department. The minister may also appoint one or more persons to inquire into and report upon any appeal, complaint, or dispute arising from the decision of any board or inspector or other school official, or upon the financial condition of any school district, or any other school matter which may require departmental attention. Upon receipt of such report the minister makes such order thereon as to him may seem proper. In brief, the minister may make any provision not inconsistent with the statutes that may be necessary to meet exigencies which may arise under the operation of the school laws.

The minority of the ratepayers in any school district, whether Protestant or Roman Catholic, may establish a separate school district therein, and such separate school district shall possess the same privileges and be subject to the same restrictions with respect to school grants, qualifications of teachers, courses of study, text-books and inspection as any other school district in the province.

Though the order bringing a school district into legal existence definitely fixes the boundaries of such district

a subsequent order may make such alteration in the boundaries of any district as may be deemed desirable. Consequently the establishment of new centres due to the building of railroads, the presence of natural barriers, the opening of new roads and the increase in the density of population, necessitates a constant readjustment in the boundaries of existing districts. In many localities, too, advantage is taken of the statutory provision for the consolidation of school districts, the units retaining their identities but uniting for the maintenance of a central school to which the children of the whole area are conveyed at the expense of the whole consolidation.

The money required as capital expenditure for the acquisition and improvement of school sites and the building and equipment of school houses is usually obtained by the sale of debentures issued by the school district under somewhat rigid restrictions and repayable in annual instalments over a number of years, the maximum number being dependent on the nature of the building erected and the status of the school district.

The revenue of a school district required to meet debenture payments, teachers' salaries and other current expenditures is derived almost entirely from two sources,—government grants and local taxation. The grants are so graded that during the early years of a school district's existence larger grants are received than in later years when the district in the ordinary course of events should have become better able to support itself. Similarly, as a village becomes a town and eventually grows into a city in which many teachers are employed, the amount of grant received by the district on account of each teacher gradually decreases and the larger

community is to a greater extent thrown upon its own resources. In all cases the amount of the general school grant paid with respect to each teacher is the per diem grant payable to the district on the basis indicated above, multiplied by the number of days the teacher was employed during the year, the maximum for the year being 200 days. An additional grant to rural and village districts not to exceed \$30 per year for each class-room is based on the inspector's grading of the school with respect to grounds, buildings, equipment, government and progress. The purpose of this grant is to establish and maintain a suitable school library, and as the department may supply books in lieu of money grants, a branch of the departmental staff devotes its attention to this work. To schools maintaining one or more rooms exclusively for secondary school grades an additional grant of \$150 per year is payable with respect to each room so maintained, and to those which do not maintain any room exclusively for such grades but which provide for instruction in these grades and maintain an average attendance of at least six pupils in the secondary grades, an additional grant of \$80 per year is payable. Further grants are payable with respect to the conveyance of pupils in consolidated school districts or from one district to another, as well as for the encouragement of night classes and instruction in such special subjects as manual training, household science, art, music, agriculture and school gardening.

The procedure with respect to the collection of taxes varies according to the status of the municipality in which a school district is located. In a "town" district, that is one in which a city or a town is located, the

school board early in each year submits to the municipal council an estimate showing the amount of money which will be required for school purposes during the year. This amount, in addition to the amount required for municipal purposes, is included by the municipal council in the taxes levied on the ratepayers of the school district. Should the school district extend beyond the limits of the municipality, the council still levies and collects school taxes on the whole district, while their taxation for municipal purposes is, of course, limited to the municipality. In a "village" district, that is one within which an incorporated village is located, in a school district which has been declared a village district for assessment purposes, or in a consolidated school district, the school board levies and collects all taxes for school purposes. The boards of rural school districts situated within a rural municipality forward to the municipal council their estimates, as in the case of town districts, and the municipality levies and collects the school taxes with the municipal taxes, and transmits them to the treasurers of the various school districts. In a "rural" school district in which no municipal organization exists, the school board is responsible for the levying and collecting of taxes required to meet the needs of the school district.

In order that a person may be legally employed as teacher in any school under the jurisdiction of the department, he must hold a certificate of qualification issued by the department. Such certificate may be obtained by completing the required academic and professional courses in the educational institutions of the province, or by submitting satisfactory evidence of such

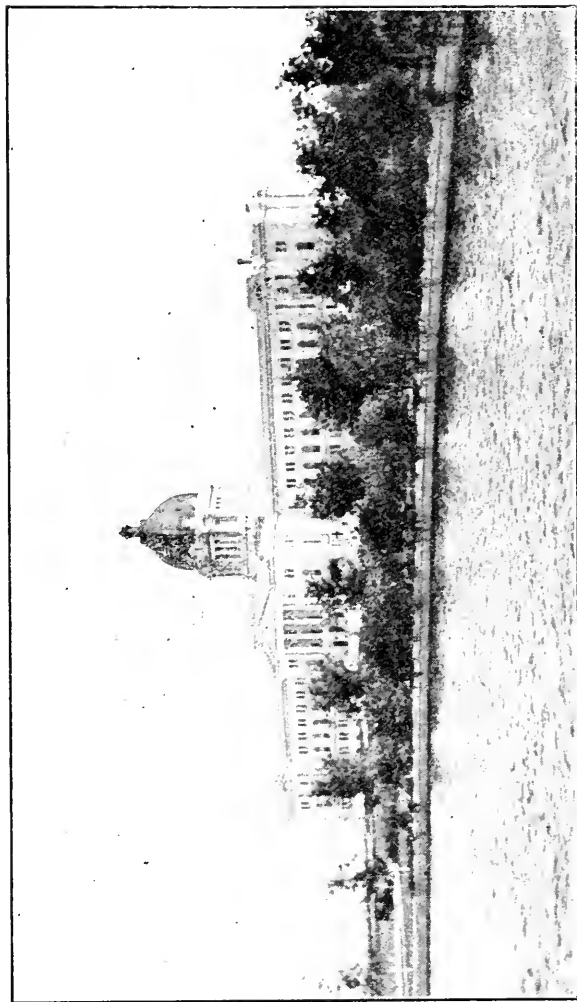
standing, as in the opinion of the department justifies recognition.

The *School Attendance Act* requires every child of the age of seven to fourteen years inclusive, to attend school regularly, and holds any parent, guardian or employer who interferes with the attendance at school of any such child responsible and liable for severe penalties. The grounds on which any parent may be exempted from penalties imposed by the Act, include illness, distance from school, insufficient school accommodation or completion of public school courses. In addition a parent is exempted from penalty, if upon the certificate of a school inspector the child is shown to be under efficient instruction elsewhere.

The board of every town district appoints an attendance officer, and the minister appoints such additional attendance officers for rural and village districts as may be necessary for the proper enforcement of the Act; and these officers, under the direction of the chief attendance officer, deal with all cases of alleged violation of the Act which may come to their attention.

A few additional features of the Alberta school system may be briefly referred to. All schools within a district, whether kindergarten, elementary, secondary or technical, are controlled by the same board of trustees, so that no clash can occur between different school interests. The English language is the medium of instruction in all schools. No religious instruction, except that a board of trustees may direct that the school be opened by the Lord's prayer, is permitted in the school of any district from the opening of such school until one-half hour





SASKATCHEWAN LEGISLATIVE BUILDINGS, REGINA

The Saskatchewan Studio, Regina

previous to its closing in the afternoon, after which time any such religious instruction permitted or desired by the board may be given.

To meet the existing needs with respect to higher education, the Provincial Legislature at its first session provided for the organization of the University of Alberta, and the first session of the University opened at Edmonton, the capital city, in September, 1908. The expansion of this institution has been rapid, and it now includes faculties in arts and sciences, applied science, medicine and dentistry, law and agriculture, as well as schools of accountancy and pharmacy. In 1916 the Provincial Institute of Technology was established at Calgary, and already gives promise of meeting a very definite need in the field of technical activities.

11.—School System of Saskatchewan.

The school system of Saskatchewan is administered mainly in accordance with the provisions of *The School Act*, *The Secondary Education Act*, and *The School Attendance Act*.

The department of education is presided over by a member of the executive council appointed to discharge the functions of the minister of education. The lieutenant-governor in council appoints such persons as may be necessary for the proper conduct of the business of the department, all of whom hold office during pleasure.

The department has the control and management of all kindergarten schools, public and separate schools, normal schools, model schools, teachers' institutes, and the education of the deaf and the blind.

The minister has the administration, control, and management of the department and oversees and directs the officers, clerks and servants. His chief executive officer is the deputy minister.

The superintendent has, subject to the direction of the minister, the general supervision and direction of the various classes of schools and their inspection, and makes such recommendations to the minister as he deems advisable respecting such supervision, direction, and inspection.

For the furtherance of the work of the department, regulations are made by the minister with the approval of the lieutenant-governor in council. These include such matters as the organization and inspection of schools, construction and furnishing of school buildings, licensing of teachers, conducting of teachers' institutes, authorization of text and reference books, and the training of teachers.

The duties of the minister include such general matters as directions to boards of trustees, the appointment when necessary of persons to call school meetings, and the preparation of the annual report to the legislature upon the work of the department. He may also make any provisions that may be necessary to meet exigencies in connection with the operation of *The School Act*.

He has power to investigate matters pertaining to the affairs of school districts, to appoint official trustees, to cancel for cause teachers' certificates, to prepare plans of school buildings, and to provide schools for the professional training of teachers.

12.—Educational Council.

There is an educational council consisting of five members appointed by the lieutenant-governor in council. Of these, three are Protestants, and two are Roman Catholics. Meetings of the council are held at least once a year. All general regulations respecting the inspection of schools, licensing of teachers, courses of study and authorization of text-books are before being adopted or amended referred to the council for its discussion and report. The council may also report to the lieutenant-governor in council upon any question concerning the educational system of Saskatchewan.

13.—School Districts.

The school district is the unit of area for purposes of administration. School districts are classified as follows:

“Rural District.”—A school district situated wholly outside the limits of a village, town, or city municipality.

“Village District.”—A school district situated wholly or in part within the limits of a village.

“Town District.”—A school district situated wholly or in part within the limits of a town or city municipality.

The conditions of formation of a rural district are:

- (a) Its area shall not exceed twenty square miles, nor its length or breadth five miles;
- (b) There must be at least four persons actually residing within the proposed district, each of whom on the organization would be liable to be assessed for school purposes;
- (c) There must be at least ten children between the ages of five and sixteen years inclusive actually residing within the proposed district.

Permission may also be granted by the Minister for the organization of a large district, not less than thirty-six square miles nor more than fifty square miles, for the purpose of conveying the children to a central school if satisfactory evidence is afforded the department that the creation of such district is in the public interest.

There is also provision under the law by which the minister may order the erection of a district. The conditions are :

- (a) Twenty children between the ages of five and sixteen inclusive ;
- (b) Ten persons actually residing therein who on the erection of the district would be liable to assessment ;
- (c) Six thousand acres of assessable land.

Upon the formation of a school district three persons are elected trustees for the district. The persons nominated for the position of trustee must be resident ratepayers of the proposed district and able to read and write. In rural and village districts each trustee after the first election holds office for three years. In town districts there are five trustees, each of whom after the first election holds office for two years. Every trustee holds office until his successor is appointed.

The board appoints a chairman, a secretary and treasurer, or a secretary-treasurer, and such other officers and servants as may be required.

The board of any district may borrow money on the security of the district for the purpose of obtaining a school site, erecting a school-house and outbuildings, or

building a teachers' residence. Before this can be done certain procedure is required by *The School Act*. The power to borrow money is granted by the Local Government Board.

14.—Separate Schools.

The minority of the ratepayers in any district, whether Protestant or Roman Catholic, may establish a separate school therein ; and in such case the ratepayers establishing such Protestant or Roman Catholic separate school are liable only to assessments of such rates as they impose upon themselves.

The petition for the erection of a separate school district must be signed by three resident ratepayers of the religious faith indicated in the name of the proposed district, and in the form prescribed by the minister.

The persons qualified to vote for or against the erection of a separate school district are the ratepayers in the district of the same religious faith, Protestant or Roman Catholic, as the petitioners.

After establishment of a separate school district it possesses and exercises the rights, powers, privileges, and is subject to the same liabilities and method of government as public school districts.

15.—Language and Religious Instruction.

The English language is the language of instruction but it is permissible for the board of any district to cause a primary course to be taught in the French language.

No religious instruction is permitted from the opening of the school until one-half hour previous to its closing

in the afternoon, after which time any such instruction permitted or desired by the board may be given.

The board of any district may, however, direct that the school be opened by the recitation of the Lord's prayer.

Any child has the privilege of leaving the school-room when religious instruction is commenced or of remaining without taking part in any religious instruction that may be given if the parents or guardians so desire.

16.—Teachers.

Teachers are required to hold valid certificates of qualification issued under the regulations of the department. They are engaged under the authority of a resolution of the board passed at a regular or special meeting of the board. Either the board or the teacher has the power to terminate the agreement by giving not less than thirty days' notice in writing to the other party. The teacher is responsible for the general organization and discipline of the school and is required to teach in accordance with *The School Act* and the regulations of the department. He is also required to assist the board in the preparation of such term returns as may be required from time to time by the department of education.

17.—How Schools are Supported.

Schools are supported mainly from two sources: legislative grants and local taxation. The legislative grants include the annual appropriation to schools by the legislature and the supplementary revenue grant which is derived from the supplementary revenue fund.

This fund is the result of a rate of one cent an acre levied each year upon every owner or occupant of land. On land held under lease for grazing purposes the rate is one-half a cent an acre. Lands within the limits of town and village districts are exempted from this tax.

The mode of assessment in rural district applies to the following :

- (a) To rural districts no part of which is included within the limits of any rural municipality ;
- (b) To such portions of rural districts as are not included within the limits of any rural municipality ;

Where a school district is situated partly in a municipality the municipality assesses and levies each year a share of the amount required for the purposes of the district.

In village districts the village within which the district is situated either in whole or in part assesses and levies such rates as may be sufficient to meet the sums required to be raised within the municipality for school purposes for the year.

In town districts the city or town municipality within which the district is situated assesses and levies each year such rates as may be sufficient to meet the sums required to be raised within the municipality for school purposes for the year, and all the provisions of the City Act, or Town Act as the case may be, applies to such rates.

18.—The School Attendance Act.

This Act requires every parent or guardian having charge of a child over seven and under fourteen years of age to send such child to the school of the district in

which he resides for the whole period during which the school is in operation each year. Heavy penalties are provided for those who fail to observe the law in this respect. These penalties are not imposed in cases where it can be shown that the child is receiving efficient instruction at home, or elsewhere; is unable to attend by reason of sickness or some other unavoidable cause; or where it can be shown that he has to support himself or some other person. A parent may also be exempted from penalty on account of distance from school, lack of accommodation, or if evidence is afforded that the child has completed the course of study for public schools.

Town districts are required to provide attendance officers, and the minister of education may appoint local attendance officers in districts not included within town districts. He may also appoint a chief attendance officer and provincial attendance officers whose duties extend to all parts of the province.

Principals and inspectors of schools have certain duties under the law to perform, and are required to assist in seeing that the provisions of the *Act* are complied with.

19.—Higher Education.

Shortly after the establishment of the Province two Acts were passed by the legislature for the furtherance of higher education. These were the Secondary Education Act which provided for the establishment of high schools and collegiate institutes, and the University Act which paved the way for the establishment of the University of Saskatchewan.

As a result of the former a number of high schools have been established, some of which have since been raised to the rank of collegiate institutes. In addition to local taxation liberal grants are appropriated by the legislature for the maintenance of these institutions.

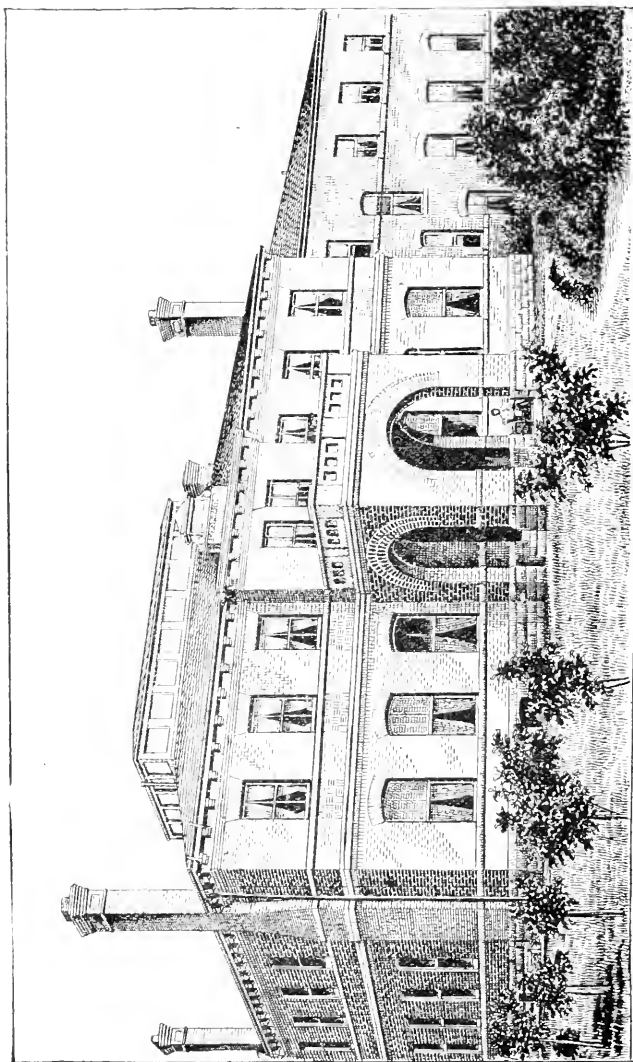
The University of Saskatchewan has been in operation since the year 1912. Its progress has been rapid and in keeping with the general expansion in the province. The College of Agriculture is an integral part of the University. The University now includes faculties in arts and science, including schools of engineering and pharmacy, the College of Agriculture, and the College of Law.

The sources of support for the University are the grants appropriated by the legislature, and proportion of the supplementary revenue, succession duties, fees, and sales of products from the University farm.

SEVENTH PART.

GOVERNMENT IN THE NORTHWEST TERRITORIES AND THE YUKON.

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CHAPTER I.

GOVERNMENT OF NORTHWEST TERRITORIES.

1.—Territorial Area.

The territories of Canada comprise the territories formerly known as Rupert's Land and the Northwest Territory, except such portions as now form the Provinces of Manitoba, Saskatchewan and Alberta, and the Yukon Territory and parts of Ontario and Quebec—together with all British territories and possessions in North America, and all islands adjacent not included in any province, except the colony of Newfoundland and its dependencies.

This region, including the present Provinces of Manitoba, Saskatchewan and Alberta, and the Yukon Territory and the territory added to the provinces of Ontario and Quebec in 1912, came into the possession of Canada by the purchase of the rights of the Hudson Bay Company.

The Royal Northwest Mounted Police exercise jurisdiction over the whole of the Northwest Territories for the preservation of the peace and the prevention of crime, besides performing other duties of a pioneer character in connection with the security and development of the territories.

2.—Government.

The territories are governed by a Commissioner as *executive officer* with the powers of the former lieutenant-governor. He acts under instructions from the governor in council and the Minister of the Interior at Ottawa. A council of four or less may be created to assist him, which, together with the commissioner, may make ordinances, which have the same force and effect as those of the former assembly. The governor in council may disallow any ordinance within two years.

There is a secretary and accountant to assist the commissioner in the administration of the Northwest Territories.

3.—Administration of Justice.

The governor in council may appoint stipendiary magistrates wherever required, with the powers and functions formerly vested in a judge of the supreme court of the Northwest Territories, provided that in case of a capital offence and sentence to death the magistrate must forward to the minister of justice full notes of the evidence with his report on the case and the execution is stayed until it is received and the pleasure of the governor-general thereon is communicated to the commissioner.

The judges of Ontario, British Columbia and the prairie provinces have jurisdiction in civil matters in the part of the territories lying west of the eightieth meridian of west longitude. Coroners are also appointed who may act with less than six jurors, if in the coroner's opinion it is impracticable to find six.

Whenever by any act or ordinance a certain officer is designated to do a certain act, and none exist, the commissioner may order by whom such duty shall be performed. The mounted police can act as constables for the preservation of peace, the prevention of crime, the arrest of criminals, and the conveyance of convicted persons to places of confinement, besides performing any other duties necessary for security and order in the territories. British and Canadian barristers, solicitors and advocates are allowed to practice.

4.—Schools.

No established schools or system of schools exists in the territories. Whenever a mission is started by the members of any denomination or faith and children are taught the elements of education, the government of Canada will usually make them a grant to assist the work.

CHAPTER II.

YUKON.

Government.—2. Administration of Justice, etc.

1.—Government.

Parliament has organized a government in this territory to meet the requirements of the population attracted to this wild region by the finding of gold. Its affairs are at present administered by a commissioner appointed by the governor in council; a council composed of ten members elected to represent the electoral districts named and described by the commissioner in council.

Provision is made for the appointment of an administrator to replace the commissioner in case of his absence, illness or other inability.

Any elector may be a councillor. The qualifications of electors is fixed by the commissioner in council, but such persons must be British subjects of the age of twenty-one or over, and must have resided in the district for at least twelve months prior to the election.

This government may impose taxes for purposes within its jurisdiction; may pass ordinances regarding juries in civil and criminal matters; it may establish jails, pass laws for the municipal organization of the country, and with reference to property and civil rights and education, and also for the administration of justice.

Any ordinance may be disallowed by the governor in council within two years after its passage. The governor in council may also make ordinances within certain limitations.

2.—Administration of Justice.

This consists of a superior court, called the territorial court, composed of one judge, who is appointed by the governor in council like other superior court judges. Besides this court there are also police magistrates, magistrates and justices of the peace. The territory is an admiralty district. The superior court has practically unlimited civil and criminal jurisdiction. It may dispose of motions for new trials, appeals and motions of like nature and appeals from magistrate's decisions.

In criminal matters no grand jury exists. The judge may exercise the power of a justice of the peace or of two justices. He may hold summary trials* or sit as judge with a jury. In any case, however, the accused may elect to be tried without a jury. The juries are composed of six persons.

In case of a capital offence the sentence is suspended until the pleasure of the governor-general has been ascertained. *Police Magistrates* have only local jurisdiction, they may try summarily certain criminal cases.* In civil matters they have a very limited jurisdiction. They have no jurisdiction in matters of gambling debts, libels, slander, questions regarding "wills," title to land, and such like matters.

*A summary trial or to try summarily is a trial without a jury.

The court of appeal of British Columbia is the court of appeal for the territory, and where the judge or more than one judge is required such as the trial of controverted election cases the judges of the court of appeal and of the supreme court of British Columbia have jurisdiction.

3.—Municipal and School Systems.

It is not intended here to deal with this question at any length. Let it suffice to say that ample provisions have been made for a complete system based on those of the provinces, and principally on that of Ontario. And, as the country develops, these are put into force to meet the requirements of the various localities. The commissioner may establish towns, under certain conditions, which are governed by the act passed in that behalf. Dawson City has a special charter. Various ordinances have been passed to protect the health, life and property of the inhabitants.

The council of the Yukon, with two outsiders, form the council of public instructions. It possesses the usual powers of such councils in the provinces. The country is divided into districts for school purposes, the ratepayers whereof elect trustees, etc. The minority of the ratepayers, whether protestant or catholic, of any school district may petition and obtain a separate school district.

CHAPTER III.

THE PUBLIC LANDS.

1. *Public Lands.*—2. *Registration.*

1.—Public Lands.

The public lands of Manitoba, Alberta, Saskatchewan, the Railway belt of British Columbia, and the territories are controlled by the dominion government, which has made very liberal provision for the encouragement of settlement. The administration and management of

N.

	31	32	33	34	35	36	
	30	29	28	27	26	25	
<i>W.</i>	19	20	21	22	23	24	<i>E.</i>
	18	17	16	15	14	13	
	7	8	9	10	11	12	
	6	5	4	3	2	1	

S.

this land is entrusted to the minister of the interior and to certain commissioners, officers and clerks whose duties are defined by statute and the regulations of the department, and there is a Dominion Lands Board, to settle disputed questions. Dominion lands are laid off in quadrilateral blocks or townships, each containing 36 sections of as nearly one mile square as the scientific survey permits, with such road allowances between sections as the governor-general in council prescribes. Sections are bounded and numbered as in the diagram on preceding page.

Each section is divided into quarter sections of one hundred and sixty acres, and consequently each township, as a rule, comprises about 23,040 acres of land. Each such quarter section is again divided into quarter sections, or forty acres, numbered as in the following diagram :

	<i>N.</i>				
	13	14	15	16	
	12	11	10	9	
<i>W.</i>	5	6	7	8	<i>E.</i>
	4	3	2	1	
	<i>S.</i>				

Sections eleven and twenty-nine (see first diagram) in every surveyed township throughout the extent of the dominion lands are set apart for the purposes of education and are withdrawn from homestead regulations. Provision is also made for towns and cities. In order to give every possible encouragement to actual settlement the law provides that all surveyed even numbered sections, which have not been otherwise reserved for a special purpose, are to be held exclusively for "homesteads," or practically free homes. Any person who is the sole head of a family, or any male who is of the age of eighteen years, can on the payment of ten dollars obtain possession of a homestead of one quarter section, or one hundred and sixty acres of surveyed agricultural land, and secure a perfect title from the crown if he is a British subject, or not being a British subject has served in the great European war with the forces of Great Britain or her allies:—1. By showing exclusive use for three years; 2. Residence at least six months in each year; 3. Building of a house thereon; and 4. Cultivation of such area as may from time to time be required by the regulations. The homesteader must complete his "entry" by taking personal possession and beginning residence thereon within six months from the date of obtaining the same. When he has complied with the terms of the law, which are intended to encourage actual settlers and prevent land falling into the hands of mere speculators, he receives a "patent" or title from the dominion government. A man who wishes to secure his complete title in a shorter time can do so by furnishing proof that he has lived on the land for at least twelve months from the date of his perfecting his entry, and

that he has cultivated at least thirty acres. An actual settler may also purchase a quarter section adjoining his own when available, at the ordinary price, which is three dollars an acre; one-fourth of the purchase money to be in cash, and the balance in three equal yearly instalments at five per cent. interest annually. Other advantages are given to settlers not necessary or possible to mention here.

2.—Registration.

The legal regulations for the transfer of lands are very clear and simple, and the provisions relating to the sale of land and ascertaining whether a good title can be obtained or not are very satisfactory, and enable a purchase to be made quickly, cheaply, and safely.

CONCLUSION.

THE DUTIES AND RESPONSIBILITIES OF CANADIAN CITIZENS.

I now have given an outline of the leading features of the government of Canada, and shall conclude with a few general observations addressed especially to my younger readers, on whom must largely rest the effective and pure administration of public affairs in the future of a country, still in the infancy of its development.

Whatever defects and weaknesses may exist in certain details of the Canadian federal structure—and this opens up subjects of controversy into which I cannot enter in a book like this—Canadians may fairly claim that it is on the whole well adapted to meet the wants and necessities of the people of the Dominion. From the foundation to the crowning apex it has many attributes of strength. It is framed on principles which, as tested by British and American experience, are calculated to assist national development and give full liberty to local institutions. At the bottom of the edifice are those parish, township, county and municipal institutions which are eminently favourable to popular freedom and local improvement. Then comes the more important provincial organization, divided into those executive, legislative and judicial authorities which are essential to the working of all constitutions. Next comes the central government which assumes a national dignity and is intended as a guarantee of protection, unity and security

to the whole system. . And above all is the imperial power, a power that has perhaps in times past been sometimes misused—what human institution is perfect?—but which on so many and great occasions has been so gloriously and unselfishly used to support and help the weak and suffering, to promote mercy, justice and truth, and to increase the happiness of peoples of all colours and races.

In the system of parliamentary government, which has been developed in Canada in accordance with English principles, we have elements of undoubted strength as compared with those enjoyed by the people of the United States, where neither the president of the nation nor the governor of a state has a cabinet having seats in the legislative assemblies of the country to which it is responsible for the work of administration. In Canada the governor-general, or the lieutenant-governor, his cabinet, and the popular branch of the legislature are governed, as in England, by a system of rules, which enable them to work in harmony with one another. The crown, the cabinet, the legislature and the people have each certain rights and powers which, when properly and constitutionally used, give strength and elasticity to our system of government. In all cases there must be a ministry to advise the crown, assume responsibility for its acts, and obtain the support of the people and their representatives in parliament. As a last resort to bring into harmony the people, the legislature, and the crown, there is the supreme prerogative of dissolution. A governor, acting always under the advice of responsible ministers, may, at proper times, grant an appeal to the people to test their opinion on vital public questions and

bring the legislature into accord with the public mind. In short, the fundamental principle of the sovereignty of the people lies at the very basis of the Canadian system.

The following features of the Canadian system of government also give it strength and stability :—

A permanent civil service under the dominion and provincial governments.

The appointment of all judges and public officials by the crown, on the advice of ministers responsible to parliament for every such executive act—in contradistinction to the elective system of the states of the United States, where even the highest judges are, in most cases, elected by the people.

The independence of the judiciary and their freedom from all party and political pressure. The judges when once appointed, can be removed only for misbehaviour or unfitness, while in nearly all the states of the United States their tenure is limited to a certain number of years—ten on the average.

The reference of questions, involving the constitutional rights of the Dominion and the provinces, to perfectly independent courts on whose unbiased decision the security of a federal system must always rest.

But however well devised a system of government may be, it is relatively worthless unless the men and women who compose the people of Canada are always fully alive to their duties and responsibilities. It has been well said that “eternal vigilance is the price of liberty,” and if the people of Canada are indifferent to the character and ability of the men to whom, from time

to time, they entrust the administration of public affairs—whether in the Dominion, a province, a city or other municipal division, or in a school district—they must sooner or later themselves reap the results of their neglect of duty. Good and safe government means active interest on the part of all classes of citizens, and particularly on the part of those whose intelligence, education and standing give them a special right to be leaders in creating a sound public opinion in their respective communities.

A famous Greek writer said that “man is born to be a citizen.” Upon men’s fitness to perform their duties as citizens depends the success, progress and happiness of the people.

Let the young citizens of Canada always have before them a high ideal for it is all important that the body politic should be kept pure and that public life should be considered a public trust. Canada is still young in political development, and the fact that her population has been as a rule free from those dangerous elements which have come into the United States with such rapidity of late years, has kept her relatively free from many serious social and political dangers which have afflicted her neighbours, and to which I believe they themselves, having inherited English institutions, and being imbued with the spirit of English law, will always in the end rise superior. Great responsibility therefore rests in the first instance upon the people of Canada, who must select the best and purest among them to serve the country, and, secondly, upon the men whom the legislature chooses to discharge the trust of carrying on the government. No system of government or of laws can of itself make a people

virtuous and happy unless their rulers recognize in the fullest sense their obligations to the state and exercise their powers with prudence and unselfishness, and endeavour to elevate public opinion. A constitution may be as perfect as human agencies can make it and yet be relatively worthless, while the large responsibilities and powers entrusted to the governing body—responsibilities and powers not set forth in acts of parliament—are forgotten to attain party triumph, personal ambition, or pecuniary gain. “The laws,” says Burke, “reach but a very little way. Constitute government how you please, infinitely the greater part of it must depend upon the exercise of powers which are left at large to the prudence and uprightness of ministers of state. Even all the use and potency of the laws depend upon them. Without them your commonwealth is no better than a scheme upon paper, and not a living, active, effective organization.”

In Canada, I quote the words of a Canadian poetess*—

“As yet the waxen mould is soft, the opening page is fair ;
It's left for those who rule us now to leave their impress there—
The stamp of true nobility, high honour, stainless truth ;
The earnest quest of noble ends ; the generous heart of youth ;
The love of country, soaring far above dull party strife ;
The love of learning, art, and song—the crowning grace of life ;
The love of science, soaring far through nature's hidden ways ;
The love and fear of nature's God—a nation's highest praise.”

* Miss Machar, of Kingston, well known as “Fidelis.”

BIBLIOGRAPHICAL NOTE.

The object of this note is to give some assistance to those who desire to obtain fuller information upon the several subjects treated in this book.

CANADIAN HISTORY AND CONSTITUTION.—The history of the French regime in Canada, and of the struggle between the British and French for the possession of the country is best told in the charming volumes of Parkman, which every Canadian ought to read. *Canada Under British Rule, 1760 to 1900*, by Sir John Bourinot, gives a summary of the principal events during the period named. Dent's *Forty Years Since the Union of 1841* gives a satisfactory and full account of the old Province of Canada to 1867, and of the Dominion from that date to 1880. Houston's *Constitutional Documents of Canada* contains a number of important statutes and treaties, but the Canadian Archives are publishing a series of Canadian constitutional documents that are of the highest value. Two volumes, covering from 1759 to 1818, have already appeared. There is a volume of the official debates in the legislature of the Province of Canada upon Confederation, but the volume has no index, and any information obtained from it is dearly won. Bourinot's *Manual of the Constitutional History of Canada*, 1901, gives an account of the constitutional development of Canada from the earliest times. Keith's *History of Responsible Government in the Colonies*, three volumes, 1912, is the most complete authority on the subject. Clement's and Lefroy's books on the Constitution are large treatises on the constitution of Canada, but neither of them are suitable for the ordinary student, but may be used as books of reference.

ENGLISH CONSTITUTION.—Maitland's *Lectures on Constitutional History*, 1913, should be read by advanced students, as the volume will introduce the student to the most modern school of historical enquiry, and is written by a scholar of great eminence. Medley's *Constitutional History of England* is a good compendium, but the student should endeavour to acquire a bigger, broader and deeper

knowledge of a subject of such importance than can be gained from any compendium. The standard works are Stubbs, three volumes for the earlier period, and May, three volumes for the later period, the supplementary volume bringing the history down to 1911. Dicey's *Introduction to the Study of the Constitution*, 1915, is an admirable work, and so are *Law and Custom of the Constitution* by Anson, three volumes, and the works of the late Dr. Todd, *Parliamentary Government in England*, two volumes, 1889, and the complimentary volume, *Parliamentary Government in the Colonies*, 1894, new editions of which would be a great boon.

PARLIAMENT.—There is an excellent little book which will supply the ordinary student with all the information he requires called *Parliament*, by Sir Courtenay Ilbert, published in the Home University Library at a low price, and which has a bibliographical note for those who desire to make a further study of the matter. The standard authorities are May's *Parliamentary Practise*, 1917, Redlich's *History of the Procedure of the House of Commons*, three volumes, 1908, and Cushing's *Law and Practise of Legislative Assemblies*, for the American practise, and Bourinot's *Parliamentary Procedure* for Canada. Those who desire to know something of the United States constitution and the procedure of Congress can read *Congressional Government* and *Constitutional Government in the United States*, two small volumes written by President Wilson. There is also a very excellent and suggestive little book in the Home University Library—*The History of England, a study in Political Evolution*, by Professor Pollard. *The Senate of Canada*, by Sir George Ross, is an interesting book by a very experienced politician, who was himself a senator.

MUNICIPAL GOVERNMENT.—There is an excellent essay on *The Better Government of Our Cities*, by J. O. Miller, D.C.L., in *The New Era in Canada*, Dent & Sons, 1917. *The Government of American Cities*, by Munro, McMillan, 1913, is a leading work, while *Rural Planning and Development*, by Thomas Adams, the town planning advisor of the *Commission of Conservation*, published by the Commission in 1917, is a work that every Canadian who is interested in the development of his country should read. Similar reports are to be issued by the Commission upon *Urban Planning*,

and the solution of questions connected with rural and urban problems and the legislative and administrative reforms needed in connection with the development of land.

EDUCATION.—A very excellent summary of the educational systems of Canada will be found in the *Canada Year Book* for 1916-17, this article includes very valuable statistical tables. In *The New Era in Canada* above referred to will be found an historical account of the bilingual school question by Professor Wrong, on the same subject *Bilingual Schools in Canada*, by C. B. Sissons, Dent & Sons, 1917, may be consulted. For further information on the educational systems of Canada recourse must be had to the reports and other works published by the several provinces.

GENERAL.—Much statistical and other information with respect to Canada may be found in the *Official Year Books*, published by the Department of Trade and Commerce, and in the *Canadian Almanac*, published each year ; and, for information about current events, in the *Canadian Annual Review*, published annually by Castell Hopkins. For much of the information contained and referred to in this volume, recourse must be had to the statutes of Canada and of the several provinces and to the annual and other reports issued by the various Dominion and Provincial public departments. *Canada and the War*, *The Promise of the West*, by J. H. Menzies, is a recent book containing much information about western Canada.

APPENDIX.

THE CONSTITUTION OF THE DOMINION OF CANADA

OR THE

BRITISH NORTH AMERICA ACT,

1867,

AS AMENDED BY SUBSEQUENT ACTS.

APPENDIX.

THE BRITISH NORTH AMERICA ACT, 1867.

[Assented to by the Queen on the 27th March, 1867.]

An Act for the Union of Canada, Nova Scotia and New Brunswick, and the Government thereof, and for purposes connected therewith.

WHEREAS the provinces of Canada, Nova Scotia and New Brunswick have expressed their desire to be federally united into one Dominion under the crown of the united kingdom of Great Britain and Ireland, with a constitution similar in principle to that of the united kingdom :

And whereas such a union would conduce to the welfare of the provinces and promote the interests of the British empire :

And whereas on the establishment of the union by authority of parliament it is expedient, not only that the constitution of the legislative authority in the Dominion be provided for, but also that the nature of the executive government therein be declared :

And whereas it is expedient that provision be made for the eventual admission into the union of other parts of British North America :

Be it therefore enacted and declared by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

I.—PRELIMINARY.

1. This act may be cited as the British North America Act, 1867.
2. The provisions of this act referring to her majesty the queen extend also to the heirs and successors of her majesty, kings and queens of the United Kingdom of Great Britain and Ireland.

II.—UNION.

3. It shall be lawful for the queen, by and with the advice of her majesty's most honourable privy council, to declare by proclamation

that, on and after a day therein appointed, not being more than six months after the passing of this act, the provinces of Canada, Nova Scotia and New Brunswick shall form and be one Dominion under the name of Canada; and on and after that day those three provinces shall form and be one Dominion under that name accordingly.

4. The subsequent provisions of this act shall, unless it is otherwise expressed or implied, commence and have effect on and after the union, that is to say, on and after the day appointed for the union taking effect in the queen's proclamation; and in the same provisions, unless it is otherwise expressed or implied, the name Canada shall be taken to mean Canada as constituted under this act.

5. Canada shall be divided into four provinces, named Ontario, Quebec, Nova Scotia and New Brunswick.

6. The parts of the province of Canada (as it exists at the passing of this act) which formerly constituted respectively the provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form two separate provinces. The part which formerly constituted the province of Upper Canada shall constitute the province of Ontario; and the part which formerly constituted the province of Lower Canada shall constitute the province of Quebec.

7. The provinces of Nova Scotia and New Brunswick shall have the same limits as at the passing of this act.

8. In the general census of the population of Canada, which is hereby required to be taken in the year one thousand eight hundred and seventy-one, and in every tenth year thereafter, the respective populations of the four provinces shall be distinguished.

III.—EXECUTIVE POWER.

9. The executive government and authority of and over Canada is hereby declared to continue and be vested in the queen.

10. The provisions of this act referring to the governor-general extend and apply to the governor-general for the time being of Canada, or other the chief executive officer or administrator for the time being carrying on the government of Canada on behalf and in the name of the queen, by whatever title he is designated.

11. There shall be a council to aid and advise the government of Canada, to be styled the queen's privy council for Canada; and the persons who are to be members of that council shall be from time to time chosen and summoned by the governor-general and sworn in as privy councillors, and members thereof may be from time to time removed by the governor-general.

*2. All powers, authorities and functions, which under any act of

the parliament of Great Britain, or of the parliament of the united kingdom of Great Britain and Ireland, or of the legislature of Upper Canada, Lower Canada, Canada, Nova Scotia or New Brunswick, are at the union vested in or exercisable by the respective governors or lieutenant-governors of those provinces with the advice, or with the advice and consent, of the respective executive councils thereof, or in conjunction with those councils, or with any number of members thereof, or by those governors or lieutenant-governors individually, shall, as far as the same continue in existence and capable of being exercised after the union in relation to the government of Canada, be vested in and exercisable by the governor-general, with the advice, or with the advice and consent, of or in conjunction with the queen's privy council for Canada, or any members thereof, or by the governor-general individually, as the case requires, subject, nevertheless, (except with respect to such as exist under acts of the parliament of Great Britain or of the parliament of the united kingdom of Great Britain and Ireland) to be abolished or altered by the parliament of Canada.

13. The provisions of this act referring to the governor-general in council shall be construed as referring to the governor-general acting by and with the advice of the queen's privy council for Canada.

14. It shall be lawful for the queen, if her majesty thinks fit, to authorize the governor-general from time to time to appoint any person or any persons jointly or severally to be his deputy or deputies within any part or parts of Canada, and in that capacity to exercise during the pleasure of the governor-general such of the powers, authorities and functions of the governor-general as the governor-general deems it necessary or expedient to assign to him or them, subject to any limitations or directions expressed or given by the queen; but the appointment of such a deputy or deputies shall not affect the exercise by the governor-general himself of any power, authority or function.

15. The command-in-chief of the land and naval militia, and of all naval and military forces, of and in Canada, is hereby declared to continue and be vested in the queen.

16. Until the queen otherwise directs, the seat of government of Canada shall be Ottawa.

IV.—LEGISLATIVE POWER.

17. There shall be one parliament for Canada, consisting of the queen, an upper house styled the senate, and the house of commons.

18. The privileges, immunities and powers to be held, enjoyed and exercised by the senate and by the house of commons, and by

the members thereof respectively, shall be such as are from time to time defined by act of the parliament of Canada, but so that the same shall never exceed those at the passing of this act held, enjoyed, and exercised by the commons house of parliament of the united kingdom of Great Britain and Ireland and by the members thereof.

(In 1868 an act was passed authorizing the examination of witnesses under oath by the senate and by parliamentary committees. The validity of this legislation was questioned in 1873 in connection with a committee appointed to enquire into certain charges of corruption arising out of a contract for building the Canadian Pacific Railway. The Imperial law officers of the crown gave an opinion that the legislation was beyond the powers of the Canadian parliament, and in 1875 the act of 1868 was confirmed by the Imperial parliament and section 18 was repealed and the following was enacted in its place:—

“The privileges, immunities, and powers to be held, enjoyed, and exercised by the senate and by the house of commons, and by the members thereof respectively, shall be such as are from time to time defined by act of the parliament of Canada, but so that any act of the parliament of Canada defining such privileges, immunities, and powers shall not confer any privileges, immunities, or powers exceeding those at the passing of such act held, enjoyed, and exercised by the commons house of parliament of the United Kingdom of Great Britain and Ireland, and by the members thereof.”)

19. The parliament of Canada shall be called together not later than six months after the union.

20. There shall be a session of the parliament of Canada once at least in every year, so that twelve months shall not intervene between the last sitting of the parliament in one session and its first sitting in the next session.

The Senate.

21. The senate shall, subject to the provisions of this act, consist of seventy-two members, who shall be styled senators.

22. In relation to the constitution of the senate, Canada shall be deemed to consist of three divisions—

1. Ontario;

2. Quebec;

3. The maritime provinces, Nova Scotia and New Brunswick; which three divisions shall (subject to the provisions of this act) be equally represented in the senate as follows:—Ontario by twenty-four senators; Quebec by twenty-four senators, and the maritime provinces by twenty-four senators, twelve thereof representing Nova Scotia and twelve thereof representing New Brunswick.

In the case of Quebec, each of the twenty-four senators representing that province shall be appointed for one of the twenty-four electoral divisions of Lower Canada specified in schedule A to chapter one of the consolidated statutes of Canada.

(British Columbia came into confederation in 1871 and was given three senators. Prince Edward Island came into confederation in 1873 and was given four senators (see sec. 147). Manitoba was given two senators in 1870, to be increased to three when her population was 50,000 and four when it was 75,000 which happened in 1882 and 1892 respectively. The Northwest Territories was given two senators in 1887, increased to four in 1903. Saskatchewan and Alberta were each given four senators in 1905, power being reserved to increase them to six each, the Northwest Territories thereupon ceased to be represented in the Senate.

In 1916 at the request of the Canadian Parliament the Imperial Parliament passed the following amendment to give the western and prairie provinces increased representation in the Senate in keeping with their increased population. The increase was however, only to be made after the dissolution of the then existing parliament.)

(1) Notwithstanding anything in the British North America Act, 1867, or in any Act amending the same, or in any Order in Council or terms or conditions of union made or approved under the said Acts or in any Act of the Canadian Parliament :

- (i) The number of senators provided for under section twenty-one of the British North America Act, 1867, is increased from seventy-two to ninety-six :
- (ii) The divisions of Canada in relation to the constitution of the Senate provided for by section twenty-two of the said Act are increased from three to four, the fourth division to comprise the Western Provinces of Manitoba, British Columbia, Saskatchewan and Alberta which four Divisions shall (subject to the provisions of the said Act and of this Act) be equally represented in the Senate, as follows:— Ontario by twenty-four senators ; Quebec by twenty-four senators ; the Maritime Provinces and Prince Edward Island by twenty-four senators, ten thereof representing Nova Scotia, ten thereof representing New Brunswick, and four thereof representing Prince Edward Island ; the Western Provinces by twenty-four senators, six thereof representing Manitoba, six thereof representing British Columbia, six thereof representing Saskatchewan, and six thereof representing Alberta :
- (iii) The number of persons whom by section twenty-six of the said Act the Governor-General of Canada may, upon the direction of His Majesty the King, add to the Senate is increased from three or six to four or eight, representing equally the four divisions of Canada :

- (iv) In case of such addition being at any time made the Governor-General of Canada shall not summon any person to the Senate except upon a further like direction by His Majesty the King on the like recommendation to represent one of the four Divisions until such Division is represented by twenty-four senators and no more :
- (v) The number of senators shall not at any time exceed one hundred and four :
- (vi) The representation in the Senate to which by section one hundred and forty-seven of the British North America Act, 1867, Newfoundland would be entitled, in case of its admission to the Union is increased from four to six members, and in case of the admission of Newfoundland into the Union, notwithstanding anything in the said Act or in this Act, the normal number of senators shall be one hundred and two, and their maximum number one hundred and ten :
- (vii) Nothing herein contained shall affect the powers of the Canadian Parliament under the British North America Act, 1886 (*vide* p. 349).

23. The qualifications of a senator shall be as follows :

- (1) He shall be of the full age of thirty years.
- (2) He shall be either a natural born subject of the queen, or a subject of the queen naturalized by an act of the parliament of Great Britain, or of the parliament of the united kingdom of Great Britain and Ireland, or of the legislature of one of the provinces of Upper Canada, Lower Canada, Canada, Nova Scotia or New Brunswick before the union, or of the parliament of Canada after the union.
- (3) He shall be legally or equitably seized as of freehold for his own use and benefit of lands or tenements held in free and common socage, or seized or possessed for his own use and benefit of lands or tenements held in franc-alieu or in rotture, within the province for which he is appointed, of the value of four thousand dollars, over and above all rents, dues, debts, charges, mortgages, and encumbrances due or payable out of, or charged on or affecting the same ;
- (4) His real and personal property shall be together worth four thousand dollars over and above his debts and liabilities ;
- (5) He shall be resident in the province for which he is appointed ;
- (6) In the case of Quebec, he shall have his real property qualification in the electoral division for which he is appointed, or shall be resident in that division.

24. The governor-general shall from time to time, in the queen's name, by instrument under the great seal of Canada, summon qualified persons to the senate; and, subject to the provisions of this act, every person so summoned shall become and be a member of the senate and a senator.

25. Such persons shall be first summoned to the senate as the queen by warrant under her majesty's royal sign manual thinks fit to approve, and their names shall be inserted in the queen's proclamation of union.

26. If at any time, on the recommendation of the governor-general, the queen thinks fit to direct that three or six members* be added to the senate, the governor-general may, by summons to three or six qualified persons (as the case may be), representing equally the three divisions of Canada, add to the senate accordingly.

27. In case of such addition being at any time made, the governor-general shall not summon any person to the senate, except on a further like direction by the queen on the like recommendation, until each of the three divisions of Canada is represented by twenty-four senators, and no more.

28. The number of senators shall not at any time exceed seventy-eight.

29. A senator shall, subject to the provisions of this act, hold his place in the senate for life.

30. A senator may, by writing under his hand, addressed to the governor-general, resign his place in the senate, and thereupon the same shall be vacant.

31. The place of a senator shall become vacant in any of the following cases:—

- (1) If for two consecutive sessions of the parliament he fails to give his attendance in the senate:
- (2) If he takes an oath or makes a declaration or acknowledgment of allegiance, obedience or adherence to a foreign power, or does an act whereby he becomes a subject or citizen, or entitled to the rights or privileges of a subject or citizen of a foreign power:
- (3) If he is adjudged bankrupt or insolvent, or applies for the benefit of any law relating to insolvent debtors, or becomes a public defaulter:
- (4) If he is attainted of treason, or convicted of felony or of any infamous crime.
- (5) If he ceases to be qualified in respect of property or of residence: provided that a senator shall not be deemed to have ceased to be qualified in respect of residence by reason only of his residing at the seat of the government of Canada while holding an office under that government requiring his presence there.

* Now "four or eight" (see p. 322).

32. When a vacancy happens in the senate, by resignation, death or otherwise, the governor-general shall, by summons to a fit and qualified person, fill the vacancy.

33. If any question arises respecting the qualification of a senator or a vacancy in the senate, the same shall be heard and determined by the senate.

34. The governor-general may from time to time, by instrument under the great seal of Canada, appoint a senator to be speaker of the senate, and may remove him and appoint another in his stead.*

35. Until the parliament of Canada otherwise provides, the presence of at least fifteen senators, including the speaker, shall be necessary to constitute a meeting of the senate for the exercise of its powers.

36. Questions arising in the senate shall be decided by a majority of voices, and the speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

The House of Commons.

37. The house of commons shall, subject to the provisions of this act, consist of one hundred and eighty-one members, of whom eighty-two shall be elected for Ontario, sixty-five for Quebec, nineteen for Nova Scotia, and fifteen for New Brunswick.†

38. The governor-general shall from time to time, in the queen's name, by instrument under the great seal of Canada, summon and call together the house of commons.

39. A senator shall not be capable of being elected or of sitting or voting as a member of the house of commons.

40. Until the parliament of Canada otherwise provides, Ontario, Quebec, Nova Scotia and New Brunswick shall, for the purposes of the election of members to serve in the house of commons, be divided into electoral districts as follows :—

1.—ONTARIO.

Ontario shall be divided into the counties, ridings of counties, cities, parts of cities, and towns enumerated in the first schedule to this act, each whereof shall be an electoral district, each such district as numbered in that schedule being entitled to return one member.†

2.—QUEBEC.

Quebec shall be divided into sixty-five electoral districts, composed of the sixty-five electoral divisions into which Lower Canada

* In 1894 an act was passed providing for the appointment of a deputy to act as speaker in the absence or illness of the speaker. This act was confirmed by an Imperial act passed in 1895.

† The Representation Act, 1914, now fixes the number of members (see section 51).

is at the passing of this act divided under chapter two of the consolidated statutes of Canada, chapter seventy-five of the consolidated statutes for Lower Canada, and the act of the province of Canada of the twenty-third year of the queen, chapter one, or any other act amending the same in force at the union, so that each such electoral division shall be for the purposes of this act an electoral district entitled to return one member.

3.—NOVA SCOTIA.

Each of the eighteen counties of Nova Scotia shall be an electoral district. The county of Halifax shall be entitled to return two members, and each of the other counties one member.*

4.—NEW BRUNSWICK.

Each of the fourteen counties into which New Brunswick is divided, including the city and county of St. John, shall be an electoral district. The city of St. John shall also be a separate electoral district. Each of those fifteen electoral districts shall be entitled to return one member.*

41. Until the parliament of Canada otherwise provides, all laws in force in the several provinces at the union relative to the following matters or any of them, namely: the qualifications and disqualifications of persons to be elected or to sit or vote as members of the house of assembly or legislative assembly in the several provinces, the voters at elections of such members, the oaths to be taken by voters, the returning officers, their powers and duties, the proceedings at elections, the periods during which elections may be continued, the trial of controverted elections, and proceedings incident thereto, the vacating of seats of members, and the execution of new writs in case of seats vacated otherwise than by dissolution—shall respectively apply to elections of members to serve in the house of commons for the same several provinces.

Provided that, until the parliament of Canada otherwise provides, at any election for a member of the house of commons for the district of Algoma, in addition to persons qualified by the law of the province of Canada to vote, every male British subject, aged twenty-one years or upwards, being a householder, shall have a vote.

42. For the first election of members to serve in the house of commons the governor-general shall cause writs to be issued by such person, in such form and addressed to such returning officers, as he thinks fit.

The person issuing writs under this section shall have the like powers as are possessed at the union by the officers charged with

*The Representation Act, 1914, now fixes the number of members.

the issuing of writs for the election of members to serve in the respective house of assembly or legislative assembly of the province of Canada, Nova Scotia or New Brunswick; and the returning officers to whom writs are directed under this section shall have the like powers as are possessed at the union by the officers charged with the returning of writs for the election of members to serve in the same respective house of assembly or legislative assembly.

43. In case a vacancy in the representation in the house of commons of any electoral district happens before the meeting of the parliament or after the meeting of the parliament before provision is made by the parliament in this behalf, the provisions of the last foregoing section of this act shall extend and apply to the issuing and returning of a writ in respect of such vacant district.

44. The house of commons, on its first assembling after a general election, shall proceed with all practicable speed to elect one of its members to be speaker.

45. In case of a vacancy happening in the office of speaker, by death, resignation or otherwise, the house of commons shall, with all practicable speed, proceed to elect another of its members to be speaker.

46. The speaker shall preside at all meetings of the house of commons.

47. Until the parliament of Canada otherwise provides, in case of the absence for any reason, of the speaker from the chair of the house of commons for a period of forty-eight consecutive hours, the house may elect another of its members to act as speaker, and the member so elected shall, during the continuance of such absence of the speaker, have and execute all the powers, privileges and duties of speaker.

48. The presence of at least twenty members of the house of commons shall be necessary to constitute a meeting of the house for the exercise of its powers; and for that purpose the speaker shall be reckoned as a member.

49. Questions arising in the house of commons shall be decided by a majority of voices other than that of the speaker, and when the voices are equal, but not otherwise, the speaker shall have a vote.

50. Every house of commons shall continue for five years from the day of the return of the writs for choosing the house (subject to be sooner dissolved by the governor-general), and no longer.*

* In 1916 the life of the then existing parliament was extended for a year.

51. On the completion of the census in the year one thousand eight hundred and seventy-one, and of each subsequent decennial census, the representation of the four provinces shall be readjusted by such authority, in such manner, and from such time as the parliament of Canada from time to time provides, subject and according to the following rules :—

- (1) Quebec shall have the fixed number of sixty-five members :
- (2) There shall be assigned to each of the other provinces such a number of members as will bear the same proportion to the number of its population (ascertained at such census) as the number of sixty-five bears to the number of the population of Quebec (so ascertained) :
- (3) In the computation of the number of members for a province a fractional part not exceeding one-half of the whole number requisite for entitling the province to a member shall be disregarded ; but a fractional part exceeding one-half of that number shall be equivalent to the whole number :
- (4) On any such readjustment the number of members for a province shall not be reduced unless the proportion which the number of the population of the province bore to the number of the aggregate population of Canada at the then last preceding readjustment of the number of members for the province is ascertained at the then latest census to be diminished by one-twentieth part or upwards :
- (5) Such readjustment shall not take effect until the termination of the then existing parliament.

(The following section was passed in 1816 by the imperial parliament at the request of Canada to meet the wishes of the maritime provinces, which were losing members after each census owing to the slow increase in their population, and in the case of the province of Prince Edward Island, the decrease of its population, a departure from the principle of representation according to population very much to be regretted) :—

51a. Notwithstanding anything in this act; a province shall always be entitled to a number of members in the house of commons not less than the number of senators representing such province.

52. The number of members of the house of commons may be from time to time increased by the parliament of Canada, provided the proportionate representation of the provinces prescribed by this act is not thereby disturbed.

Money Votes; Royal Assent.

53. Bills for appropriating any part of the public revenue, or for imposing any tax or impost, shall originate in the house of commons

54. It shall not be lawful for the house of commons to adopt or pass any vote, resolution, address, or bill for the appropriation of any part of the public revenue, or of any tax or impost, to any purpose that has not been first recommended to that house by message of the governor-general in the session in which such vote, resolution, address, or bill is proposed.

55. Where a bill passed by the houses of the parliament is presented to the governor-general for the queen's assent, he shall declare, according to his discretion, but subject to the provisions of this act and to her majesty's instructions, either that he assents thereto in the queen's name, or that he withholds the queen's assent, or that he reserves the bill for the signification of the queen's pleasure.

56. Where the governor-general assents to a bill in the queen's name, he shall by the first convenient opportunity send an authentic copy of the act to one of her majesty's principal secretaries of state, and if the queen in council within two years after receipt thereof by the secretary of state thinks fit to disallow the act, such disallowance (with a certificate of the secretary of state of the day on which the act was received by him) being signified by the governor-general, by speech or message to each of the houses of the parliament or by proclamation, shall annul the act from and after the day of such signification.

57. A bill reserved for the signification of the queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the governor-general for the queen's assent, the governor-general signifies, by speech or message to each of the houses of the parliament or by proclamation, that it has received the assent of the queen in council.

An entry of every such speech, message or proclamation shall be made in the journal of each house, and a duplicate thereof duly attested shall be delivered to the proper officer to be kept among the records of Canada.

V.—PROVINCIAL CONSTITUTIONS.

Executive Power.

58. For each province there shall be an officer, styled the lieutenant-governor, appointed by the governor-general in council by instrument under the great seal of Canada.

59. A lieutenant-governor shall hold office during the pleasure of the governor-general; but any lieutenant-governor appointed after

the commencement of the first session of the parliament of Canada shall not be removable within five years from his appointment, except for cause assigned which shall be communicated to him in writing within one month after the order for his removal is made, and shall be communicated by message to the senate and to the house of commons within one week thereafter if the parliament is then sitting, and if not then within one week after the commencement of the next session of the parliament.

60. The salaries of the lieutenant-governors shall be fixed and provided by the parliament of Canada.

61. Every lieutenant-governor shall, before assuming the duties of his office, make and subscribe before the governor-general or some person authorized by him, oaths of allegiance and office similar to those taken by the governor-general.

62. The provisions of this act referring to the lieutenant-governor extend and apply to the lieutenant-governor for the time being of each province or other the chief executive officer or administrator for the time being carrying on the government of the province, by whatever title he is designated.

63. The executive council of Ontario and of Quebec shall be composed of such persons as the lieutenant-governor from time to time thinks fit, and in the first instance of the following officers, namely: the attorney-general, the secretary and registrar of the province, the treasurer of the province, the commissioner of crown lands, and the commissioner of agriculture and public works, with, in Quebec, the speaker of the legislative council and the solicitor-general.

64. The constitution of the executive authority in each of the provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this act, continue as it exists at the union until altered under the authority of this act.

65. All powers, authorities and functions, which under any act of the parliament of Great Britain, or of the parliament of the united kingdom of Great Britain and Ireland, or of the legislature of Upper Canada, Lower Canada, or Canada, were or are before or at the union vested in or exercisable by the respective governors or lieutenant-governors of those provinces, with the advice, or with the advice and consent, of the respective executive councils thereof, or in conjunction with those councils or with any number of members thereof, or by those governors or lieutenant-governors individually, shall, as far as the same are capable of being exercised after the union in relation to the government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the lieutenant-governor of Ontario and Quebec respectively, with the advice or with the advice and consent of

or in conjunction with the respective executive councils or any members thereof, or by the lieutenant-governor individually, as the case requires, subject nevertheless (except with respect to such as exist under acts of the parliament of Great Britain or of the parliament of the united kingdom of Great Britain and Ireland), to be abolished or altered by the respective legislatures of Ontario and Quebec.

66. The provisions of this act referring to the lieutenant-governor in council shall be construed as referring to the lieutenant-governor of the province acting by and with the advice of the executive council thereof.

67. The governor-general in council may from time to time appoint an administrator to execute the office and functions of lieutenant-governor during his absence, illness, or other inability.

68. Unless and until the executive government of any province otherwise directs with respect to that province, the seats of government of the provinces shall be as follows, namely: of Ontario, the city of Toronto; of Quebec, the city of Quebec; of Nova Scotia, the city of Halifax; and of New Brunswick, the city of Fredericton.

Legislative Power.

I.—ONTARIO.

69. There shall be a legislature for Ontario, consisting of the lieutenant-governor and of one house, styled the legislative assembly of Ontario.

70. The legislative assembly of Ontario shall be composed of eighty-two members, to be elected to represent the eighty-two electoral districts set forth in the first schedule to this act.

2.—QUEBEC.

71. There shall be a legislature for Quebec, consisting of the lieutenant-governor and two houses, styled the legislative council of Quebec and the legislative assembly of Quebec.

72. The legislative council of Quebec shall be composed of twenty-four members, to be appointed by the lieutenant-governor in the queen's name by instrument under the great seal of Quebec, one being appointed to represent each of the twenty-four electoral divisions of Lower Canada in this act referred to, and each holding office for the term of his life, unless the legislature of Quebec otherwise provides under the provisions of this act.

73. The qualifications of the legislative councillors of Quebec shall be the same as those of the senators for Quebec.

74. The place of a legislative councillor of Quebec shall become vacant in the cases, *mutatis mutandis*, in which the place of senator becomes vacant.

75. When a vacancy happens in the legislative council of Quebec by resignation, death, or otherwise, the lieutenant-governor, in the queen's name, by instrument under the great seal of Quebec, shall appoint a fit and qualified person to fill the vacancy.

76. If any question arises respecting the qualifications of a legislative councillor of Quebec, or a vacancy in the legislative council of Quebec, the same shall be heard and determined by the legislative council.

77. The lieutenant-governor may, from time to time, by instrument under the great seal of Quebec, appoint a member of the legislative council of Quebec to be speaker thereof, and may remove him and appoint another in his stead.

78. Until the legislature of Quebec otherwise provides, the presence of at least ten members of the legislative council, including the speaker, shall be necessary to constitute a meeting for the exercise of its powers.

79. Questions arising in the legislative council of Quebec shall be decided by a majority of voices, and the speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

80. The legislative assembly of Quebec shall be composed of sixty-five members, to be elected to represent the sixty-five electoral divisions or districts of Lower Canada in this act referred to, subject to alteration thereof by the legislature of Quebec : provided that it shall not be lawful to present to the lieutenant-governor of Quebec for assent any bill for altering the limits of any of the electoral divisions or districts mentioned in the second schedule to this act, unless the second and third readings of such bill have been passed in the legislative assembly with the concurrence of the majority of the members representing all those electoral divisions or districts, and the assent shall not be given to such bill unless an address has been presented by the legislative assembly to the lieutenant-governor stating that it has been so passed.

3.—ONTARIO AND QUEBEC.

81. The legislatures of Ontario and Quebec, respectively, shall be called together not later than six months after the union.

82. The lieutenant-governors of Ontario and of Quebec shall, from time to time, in the queen's name, by instrument under the great seal of the province, summon and call together the legislative assembly of the province.

83. Until the legislature of Ontario or of Quebec otherwise provides, a person accepting or holding in Ontario, or in Quebec, any office, commission or employment, permanent or temporary, at the nomination of the lieutenant-governor, to which an annual salary, or any fee, allowance, emolument or profit of any kind or amount whatever from the province is attached, shall not be eligible as a member of the legislative assembly of the respective province, nor shall he sit or vote as such; but nothing in this section shall make ineligible any person being a member of the executive council of the respective province, or holding any of the following offices, that is to say: the offices of attorney-general, secretary and registrar of the province, treasurer of the province, commissioner of crown lands, and commissioner of agriculture and public works, and in Quebec, solicitor-general, or shall disqualify him to sit or vote in the house for which he is elected, provided he is elected while holding such office.

84. Until the legislatures of Ontario and Quebec respectively otherwise provide, all laws which at the union are in force in those provinces respectively, relative to the following matters or any of them, namely: the qualifications and disqualifications of persons to be elected or to sit or vote as members of the assembly of Canada, the qualifications or disqualifications of voters, the oaths to be taken by voters, the returning officers, their powers and duties, the proceedings at elections, the periods during which such elections may be continued, and the trial of controverted elections and the proceedings incident thereto, the vacating of the seats of members, and the issuing and execution of new writs in case of seats vacated otherwise than by dissolution, shall respectively apply to elections of members to serve in the respective legislative assemblies of Ontario and Quebec.

Provided that until the legislature of Ontario otherwise provides, at any election for a member of the legislative assembly of Ontario for the district of Algoma, in addition to persons qualified by the law of the province of Canada to vote, every male British subject aged twenty-one years or upwards, being a householder, shall have a vote.

85. Every legislative assembly of Ontario and every legislative assembly of Quebec shall continue for four years from the day of the return of the writs for choosing the same (subject, nevertheless, to either the legislative assembly of Ontario or the legislative assembly of Quebec being sooner dissolved by the lieutenant-governor of the province), and no longer.

86. There shall be a session of the legislature of Ontario and of that of Quebec once at least in every year, so that twelve months shall not intervene between the last sitting of the legislature in

each province in one session and its first sitting in the next session.

87. The following provisions of this act respecting the house of commons of Canada, shall extend and apply to the legislative assemblies of Ontario and Quebec, that is to say, the provisions relating to the election of a speaker originally and on vacancies, the duties of the speaker, the absence of the speaker, the quorum, and the mode of voting, as if those provisions were here re-enacted and made applicable in terms to each such legislative assembly.

4.—NOVA SCOTIA AND NEW BRUNSWICK.

88. The constitution of the legislature of each of the provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this act, continue as it exists at the union until altered under the authority of this act ; and the house of assembly of New Brunswick existing at the passing of this act shall, unless sooner dissolved, continue for the period for which it was elected.

5.—ONTARIO, QUEBEC AND NOVA SCOTIA.

89. Each of the lieutenant-governors of Ontario, Quebec, and Nova Scotia, shall cause writs to be issued for the first election of members of the legislative assembly thereof in such form and by such person as he thinks fit, and at such time and addressed to such returning officer as the governor-general directs, and so that the first election of member of assembly for any electoral district or any subdivision thereof shall be held at the same time and at the same places as the election for a member to serve in the house of commons of Canada for that electoral district.

6.—THE FOUR PROVINCES.

90. The following provisions of this act respecting the parliament of Canada, namely : the provisions relating to appropriation and tax bills, the recommendation of money votes, the assent to bills, the disallowance of acts and the signification of pleasure on bills reserved—shall extend and apply to the legislatures of the several provinces as if those provisions were here re-enacted and made applicable in terms to the respective provinces and the legislatures thereof, with the substitution of the lieutenant-governor of the province for the governor-general, of the governor-general for the queen, and for a secretary of state, of one year for two years, and of the province for Canada.

VI.—DISTRIBUTION OF LEGISLATIVE POWERS.

Powers of the Parliament.

91. It shall be lawful for the queen, by and with the advice and consent of the senate and house of commons, to make laws for the peace, order and good government of Canada, in relation to all matters not coming within the classes of subjects by this act assigned exclusively to the legislatures of the provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that (notwithstanding anything in this act) the exclusive legislative authority of the parliament of Canada extends to all matters coming within the classes of subjects next hereinafter enumerated, that is to say :—

- (1) The public debt and property.
- (2) The regulation of trade and commerce.
- (3) The raising of money by any mode or system of taxation.
- (4) The borrowing of money on the public credit.
- (5) Postal service.
- (6) The census and statistics.
- (7) Militia, military and naval service and defence.
- (8) The fixing of and providing for the salaries and allowances of civil and other officers of the government of Canada.
- (9) Beacons, buoys, lighthouses and Sable island.
- (10) Navigation and shipping.
- (11) Quarantine and the establishment and maintenance of marine hospitals.
- (12) Sea coast and inland fisheries.
- (13) Ferries between a province and any British or foreign country, or between two provinces.
- (14) Currency and coinage.
- (15) Banking, incorporation of banks and the issue of paper money.
- (16) Savings banks.
- (17) Weights and measures.
- (18) Bills of exchange and promissory notes.
- (19) Interest.
- (20) Legal tender.
- (21) Bankruptcy and insolvency.
- (22) Patents of invention and discovery.
- (23) Copyrights.

- (24) Indians and lands reserved for the Indians.
- (25) Naturalization and aliens.
- (26) Marriage and divorce.
- (27) The criminal law, except the constitution of the courts of criminal jurisdiction, but including the procedure in criminal matters.
- (28) The establishment, maintenance and management of penitentiaries.
- (29) Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this act assigned exclusively to the legislatures of the provinces.

And any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this act assigned exclusively to the legislatures of the provinces.

Exclusive Powers of Provincial Legislatures.

92. In each province the legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated, that is to say :—

- (1) The amendment from time to time, notwithstanding anything in this act, of the constitution of the province, except as regards the office of lieutenant-governor.
- (2) Direct taxation within the province in order to the raising of a revenue for provincial purposes.
- (3) The borrowing of money on the sole credit of the province.
- (4) The establishment and tenure of provincial offices, and the appointment and payment of provincial officers.
- (5) The management and sale of the public lands belonging to the province, and of the timber and wood thereon.
- (6) The establishment, maintenance, and management of public and reformatory prisons in and for the province.
- (7) The establishment, maintenance, and management of hospitals, asylums, charities, and eleemosynary institutions in and for the province, other than marine hospitals.
- (8) Municipal institutions in the province.
- (9) Shop, saloon, tavern, auctioneer, and other licenses, in order to the raising of a revenue for provincial, local, or municipal purposes.

- (10) Local works and undertakings, other than such as are of the following classes :—
- (a) Lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings connecting the province with any other or others of the provinces, or extending beyond the limits of the province :
 - (b) Lines of steamships between the province and any British or foreign country :
 - (c) Such works as, although wholly situate within the province, are before or after their execution declared by the parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the provinces.
 - (11) The incorporation of companies with provincial objects.
 - (12) Solemnization of marriage in the province.
 - (13) Property and civil rights in the province.
 - (14) The administration of justice in the province, including the constitution, maintenance and organization of provincial courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those courts.
 - (15) The imposition of punishment by fine, penalty, or imprisonment for enforcing any law of the province made in relation to any matter coming within any of the classes of subjects enumerated in this section.
 - (16) Generally all matters of a merely local or private nature in the province.

Education.

93. In and for each province the legislature may exclusively make laws in relation to education, subject and according to the following provisions :—

- (1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the province at the union.
- (2) All the powers, privileges, and duties at the union by law conferred and imposed in Upper Canada on the separate schools and school trustees of the queen's Roman Catholic subjects, shall be and the same are hereby extended to the dissentient schools of the queen's Protestant and Roman Catholic subjects in Quebec.
- (3) Where in any province a system of separate or dissentient schools exists by law at the union, or is thereafter estab-

lished by the legislature of the province, an appeal shall lie to the governor-general in council from any act or decision of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the queen's subjects in relation to education.

- (4) In case any such provincial law as from time to time seems to the governor-general in council requisite for the due execution of the provisions of this section is not made, or in case any decision of the governor-general in council on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the parliament of Canada may make remedial laws for the due execution of the provisions of this section, and of any decision of the governor-general in council under this section.

Uniformity of Laws in Ontario, Nova Scotia, and New Brunswick.

94. Notwithstanding anything in this act, the parliament of Canada may make provision for the uniformity of all or any of the laws relative to property and civil rights in Ontario, Nova Scotia and New Brunswick, and of the procedure of all or any of the courts in those three provinces, and from and after the passing of any act in that behalf, the power of the parliament of Canada to make laws in relation to any matter comprised in any such act shall, notwithstanding anything in this act, be unrestricted; but any act of the parliament of Canada making provision for such uniformity shall not have effect in any province unless and until it is adopted and enacted as law by the legislature thereof.

Agriculture and Immigration.

95. In each province the legislature may make laws in relation to agriculture in the province, and to immigration into the province; and it is hereby declared that the parliament of Canada may from time to time make laws in relation to agriculture in all or any of the provinces, and to immigration into all or any of the provinces; and any law of the legislature of a province, relative to agriculture or to immigration, shall have effect in and for the province, as long and as far only as it is not repugnant to any act of the parliament of Canada.

VII.—JUDICATURE.

96. The governor-general shall appoint the judges of the superior, district and county courts in each province, except those of the courts of probate in Nova Scotia and New Brunswick.

97. Until the laws relative to property and civil rights in Ontario, Nova Scotia and New Brunswick, and the procedure of the courts in those provinces, are made uniform, the judges of the courts of those provinces appointed by the governor-general shall be selected from the respective bars of those provinces.

98. The judges of the courts of Quebec shall be selected from the bar of that province.

99. The judges of the superior courts shall hold office during good behaviour, but shall be removable by the governor-general on address of the senate and house of commons.

100. The salaries, allowances and pensions of the judges of the superior, district and county courts (except the courts of probate in Nova Scotia and New Brunswick), and of the admiralty courts in cases where the judges thereof are for the time being paid by salary, shall be fixed and provided by the parliament of Canada.

101. The parliament of Canada may, notwithstanding anything in this act, from time to time provide for the constitution, maintenance and organization of a general court of appeal for Canada, and for the establishment of any additional courts for the better administration of the laws of Canada.

VIII.—REVENUES, DEBTS, ASSETS, TAXATION.

102. All duties and revenues over which the respective legislatures of Canada, Nova Scotia and New Brunswick before and at the union had and have power of appropriation, except such portions thereof as are by this act reserved to the respective legislatures of the provinces, or are raised by them in accordance with the special powers conferred on them by this act, shall form one consolidated revenue fund, to be appropriated for the public service of Canada in the manner and subject to the charges in this act provided.

103. The consolidated revenue fund of Canada shall be permanently charged with the costs, charges and expenses incident to the collection, management and receipt thereof, and the same shall form the first charge thereon, subject to be reviewed and audited in such manner as shall be ordered by the governor-general in council until the parliament otherwise provides.

104. The annual interest of the public debts of the several provinces of Canada, Nova Scotia and New Brunswick at the union shall form the second charge on the consolidated revenue fund of Canada.

105. Unless altered by the parliament of Canada, the salary of the governor-general shall be ten thousand pounds sterling money of the united kingdom of Great Britain and Ireland, payable out of

the consolidated revenue fund of Canada, and the same shall form the third charge thereon.

106. Subject to the several payments by this act charged on the consolidated revenue fund of Canada, the same shall be appropriated by the parliament of Canada for the public service.

107. All stocks, cash, bankers' balances, and securities for money belonging to each province at the time of the union, except as in this act mentioned, shall be the property of Canada, and shall be taken in reduction of the amount of the respective debts of the provinces at the union.

108. The public works and property of each province enumerated in the third schedule to this act shall be the property of Canada.

109. All lands, mines, minerals, and royalties belonging to the several provinces of Canada, Nova Scotia and New Brunswick at the union, and all sums then due or payable for such lands, mines, minerals, or royalties, shall belong to the several provinces of Ontario, Quebec, Nova Scotia and New Brunswick in which the same are situate or arise, subject to any trusts existing in respect thereof, and to any interest other than that of the province in the same.

110. All assets connected with such portions of the public debt of each province as are assumed by that province shall belong to that province.

111. Canada shall be liable for the debts and liabilities of each province existing at the union.

112. Ontario and Quebec conjointly shall be liable to Canada for the amount (if any) by which the debt of the province of Canada exceeds at the union sixty-two million five hundred thousand dollars, and shall be charged with interest at the rate of five per centum per annum thereon.

113. The assets enumerated in the fourth schedule to this act, belonging at the union to the province of Canada, shall be the property of Ontario and Quebec conjointly.

114. Nova Scotia shall be liable to Canada for the amount (if any) by which its public debt exceeds at the union eight million dollars, and shall be charged with the interest at the rate of five per centum per annum thereon.

115. New Brunswick shall be liable to Canada for the amount (if any) by which its public debt exceeds at the union seven million dollars, and shall be charged with interest at the rate of five per centum per annum thereon.

116. In case the public debts of Nova Scotia and New Brunswick do not at the union amount to eight million and seven million dollars respectively, they shall respectively receive, by half-

yearly payments in advance from the government of Canada, interest at five per centum per annum on the difference between the actual amounts of their respective debts and such stipulated amounts.

117. The several provinces shall retain all their respective public property not otherwise disposed of in this act, subject to the right of Canada to assume any lands or public property required for fortifications or for the defence of the country.

118. The following sums shall be paid yearly by Canada to the several provinces for the support of their governments and legislatures :—

Ontario	\$80,000
Quebec	70,000
Nova Scotia	60,000
New Brunswick.....	50,000
	<hr/>
	\$260,000

and an annual grant in aid of each province shall be made, equal to eighty cents per head of the population, as ascertained by the census of one thousand eight hundred and sixty-one, and in the case of Nova Scotia and New Brunswick, by each subsequent decennial census until the population of each of those two provinces amounts to four hundred thousand souls, at which rate such grant shall thereafter remain. Such grants shall be in full settlement of all future demands on Canada, and shall be paid half-yearly in advance to each province; but the government of Canada shall deduct from such grants, as against any province, all sums chargeable as interest on the public debt of that province in excess of the several amounts stipulated in this act.

119. New Brunswick shall receive by half-yearly payments in advance from Canada, for a period of ten years from the union, an additional allowance of sixty-three thousand dollars per annum; but as long as the public debt of that province remains under seven million dollars, a deduction equal to the interest at five per centum per annum on such deficiency shall be made from that allowance of sixty-three thousand dollars.

120. All payments to be made under this act, or in discharge of liabilities created under any act of the provinces of Canada, Nova Scotia and New Brunswick, respectively, and assumed by Canada shall, until the parliament of Canada otherwise directs, be made in such form and manner as may from time to time be ordered by the governor-general in council.

(By the terms of the British North America Act, 1907, the amounts payable by Canada to the Provinces were very much changed. The Act is as follows :—

- (1) The following grants shall be made yearly by Canada to every province, which at the commencement of this Act is a province of the Dominion, for its local purposes and the support of its Government and Legislature :—

- (a) A fixed grant—

where the population of the province is under one hundred and fifty thousand, of one hundred thousand dollars ;

where the population of the province is one hundred and fifty thousand, but does not exceed two hundred thousand, of one hundred and fifty thousand dollars ;

where the population of the province is two hundred thousand, but does not exceed four hundred thousand, of one hundred and eighty thousand dollars ;

where the population of the province is four hundred thousand, but does not exceed eight hundred thousand, of one hundred and ninety thousand dollars ;

where the population of the province is eight hundred thousand, but does not exceed one million five hundred thousand, of two hundred and twenty thousand dollars ;

where the population of the province exceeds one million five hundred thousand, of two hundred and forty thousand dollars ; and

- (b) Subject to the special provisions of this Act as to the provinces of British Columbia and Prince Edward Island, a grant at the rate of eighty cents per head of the population of the province up to the number of two million five hundred thousand, and at the rate of sixty cents per head of so much of the population as exceeds that number.

- (2) An additional grant of one hundred thousand dollars shall be made yearly to the province of British Columbia for a period of ten years from the commencement of this Act.

- (3) The population of a province shall be ascertained from time to time in the case of the provinces of Manitoba, Saskatchewan and Alberta respectively by the last quinquennial census or statutory estimate of population made under the Acts establishing those provinces or any other Act of the Parliament of Canada making provision for the purpose, and in the case of any other province by the last decennial census for the time being.
- (4) The grants payable under this Act shall be paid half-yearly in advance to each province.
- (5) The grants payable under this Act shall be substituted for the grants or subsidies (in this Act referred to as existing grants) payable for the like purposes at the commencement of this Act to the several provinces of the Dominion under the provisions of section one hundred and eighteen of the British North America Act, 1867, or of any Order in Council establishing a province, or of any Act of the Parliament of Canada containing directions for the payment of any such grant or subsidy, and those provisions shall cease to have effect.
- (6) The Government of Canada shall have the same power of deducting sums charged against a province on account of the interest on public debt in the case of the grant payable under this Act to the province as they have in the case of the existing grant.
- (7) Nothing in this Act shall affect the obligation of the Government of Canada to pay to any province any grant which is payable to that province, other than the existing grant for which the grant under this Act is substituted.
- (8) In the case of the provinces of British Columbia and Prince Edward Island, the amount paid on account of the grant payable per head of the population to the provinces under this Act shall not at any time be less than the amount of the corresponding grant payable at the commencement of this Act; and if it is found on any decennial census that the population of the province has decreased since the last decennial census, the amount paid on account of the grant shall not be decreased below the amount then payable, notwithstanding the decrease of the population.)

121. All articles of the growth, produce or manufacture of any one of the provinces shall, from and after the union, be admitted free into each of the other provinces.

122. The customs and excise laws of each province shall, subject to the provisions of this act, continue in force until altered by the parliament of Canada.

123. Where customs duties are at the union leviable on any goods, wares or merchandises in any two provinces, those goods, wares and merchandises may, from and after the union, be imported from one of those provinces into the other of them on proof of payment of the customs duty leviable thereon in the province of exportation, and on payment of such further amount (if any) of customs duty as is leviable thereon in the province of importation.

124. Nothing in this act shall affect the right of New Brunswick to levy the lumber dues provided in chapter fifteen of title three of the revised statutes of New Brunswick, or in any act amending that act before or after the union, and not increasing the amount of such dues; but the lumber of any of the provinces other than New Brunswick shall not be subject to such dues.

125. No lands or property belonging to Canada or any province shall be liable to taxation.

126. Such portions of the duties and revenues over which the respective legislatures of Canada, Nova Scotia and New Brunswick had before the union power of appropriation as are by this act reserved to the respective governments or legislatures of the provinces, and all duties and revenues raised by them in accordance with the special powers conferred upon them by this act, shall in each province form one consolidated revenue fund to be appropriated for the public service of the province.

IX.—MISCELLANEOUS PROVISIONS.

General.

127. If any person being, at the passing of this act, a member of the legislative council of Canada, Nova Scotia or New Brunswick, to whom a place in the senate is offered, does not within thirty days thereafter, by writing under his hand, addressed to the governor-general of the province of Canada or to the lieutenant-governor of Nova Scotia or New Brunswick (as the case may be), accept the same, he shall be deemed to have declined the same; and any person who, being at the passing of this act a member of the legislative council of Nova Scotia or New Brunswick, accepts a place in the senate, shall thereby vacate his seat in such legislative council.

128. Every member of the senate or house of commons of Canada shall, before taking his seat therein, take and subscribe before the governor-general or some person authorized by him, and every member of a legislative council or legislative assembly of any province shall, before taking his seat therein, take and subscribe before the lieutenant-governor of the province, or some person authorized by him, the oath of allegiance contained in the fifth schedule to this act; and every member of the senate of Canada and every member of the legislative council of Quebec shall also, before taking his seat therein, take and subscribe before the governor-general, or some person authorized by him, the declaration of qualification contained in the same schedule.

129. Except as otherwise provided by this act, all laws in force in Canada, Nova Scotia or New Brunswick at the union, and all courts of civil and criminal jurisdiction, and all legal commissions, powers and authorities, and all officers, judicial, administrative and ministerial, existing therein at the union, shall continue, in Ontario, Quebec, Nova Scotia and New Brunswick, respectively, as if the union had not been made; subject, nevertheless (except with respect to such as are enacted by or exist under acts of the parliament of Great Britain, or of the parliament of the united kingdom of Great Britain and Ireland), to be repealed, abolished or altered by the parliament of Canada, or by the legislature of the respective province, according to the authority of the parliament or of that legislature under this act.

130. Until the parliament of Canada otherwise provides, all officers of the several provinces having duties to discharge in relation to matters other than those coming within the classes of subjects by this act assigned exclusively to the legislatures of the provinces, shall be officers of Canada, and shall continue to discharge the duties of their respective offices under the same liabilities, responsibilities and penalties, as if the union had not been made.

131. Until the parliament of Canada otherwise provides, the governor-general in council may from time to time appoint such officers as the governor-general in council deems necessary or proper for the effectual execution of this act.

132. The parliament and government of Canada shall have all powers necessary or proper for performing the obligations of Canada or of any province thereof, as part of the British empire, towards foreign countries, arising under treaties between the empire and such foreign countries.

133. Either the English or the French language may be used by any person in the debates of the houses of the parliament of Canada and of the houses of the legislature of Quebec; and both those languages shall be used in the respective records and

journals of those houses; and either of those languages may be used by any person or in any pleading or process in or issuing from any court of Canada established under this act, and in or from all or any of the courts of Quebec.

The acts of the parliament of Canada and of the legislature of Quebec shall be printed and published in both those languages.

Ontario and Quebec.

134. Until the legislature of Ontario or of Quebec otherwise provides, the lieutenant-governors of Ontario and Quebec may each appoint, under the great seal of the province, the following officers, to hold office during pleasure, that is to say: the attorney-general, the secretary and registrar of the province, the treasurer of the province, the commissioner of crown lands, and the commissioner of agriculture and public works, and, in the case of Quebec, the solicitor-general; and may by order of the lieutenant-governor in council from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof, and may also appoint other and additional officers to hold office during pleasure, and may from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof.

135. Until the legislature of Ontario or Quebec otherwise provides, all rights, powers, duties, functions, responsibilities or authorities at the passing of this act vested in or imposed on the attorney-general, solicitor-general, secretary and registrar of the province of Canada, minister of finance, commissioner of crown lands, commissioner of public works and minister of agriculture and receiver general, by any law, statute or ordinance of Upper Canada, Lower Canada or Canada, and not repugnant to this act, shall be vested in or imposed on any officer to be appointed by the lieutenant-governor for the discharge of the same or any of them; and the commissioner of agriculture and public works shall perform the duties and functions of the office of minister of agriculture at the passing of this act imposed by the law of the province of Canada as well as those of the commissioner of public works.

136. Until altered by the lieutenant-governor in council, the great seals of Ontario and Quebec respectively shall be the same, or of the same design, as those used in the provinces of Upper Canada and Lower Canada respectively before their union as the province of Canada.

137. The words "and from thence to the end of the then next ensuing session of the legislature," or words to the same effect used

in any temporary act of the province of Canada not expired before the union, shall be construed to extend and apply to the next session of the parliament of Canada, if the subject matter of the act is within the powers of the same as defined by this act, or to the next sessions of the legislatures of Ontario and Quebec, respectively, if the subject matter of the act is within the powers of the same as defined by this act.

138. From and after the union the use of the words "Upper Canada" instead of "Ontario," or "Lower Canada" instead of "Quebec," in any deed, writ, process, pleading, document, matter or thing, shall not invalidate the same.

139. Any proclamation under the great seal of the province of Canada, issued before the union, to take effect at a time which is subsequent to the union, whether relating to that province, or to Upper Canada, or to Lower Canada, and the several matters and things therein proclaimed, shall be and continue of like force and effect as if the union had not been made.

140. Any proclamation which is authorized by any act of the legislature of the province of Canada to be issued under the great seal of the province of Canada, whether relating to that province or to Upper Canada or to Lower Canada, and which is not issued before the union, may be issued by the lieutenant-governor of Ontario or of Quebec, as its subject matter requires, under the great seal thereof, and from and after the issue of such proclamation the same and the several matters and things therein proclaimed shall be and continue of the like force and effect in Ontario or Quebec as if the union had not been made.

141. The penitentiary of the province of Canada shall, until the parliament of Canada otherwise provides, be and continue the penitentiary of Ontario and of Quebec.

142. The division and adjustment of the debts, credits, liabilities, properties and assets of Upper Canada and Lower Canada shall be referred to the arbitrament of three arbitrators, one chosen by the government of Ontario, one by the government of Quebec and one by the government of Canada ; and the selection of the arbitrators shall not be made until the parliament of Canada and the legislatures of Ontario and Quebec have met ; and the arbitrator chosen by the government of Canada shall not be a resident either in Ontario or in Quebec.

143. The governor-general in council may from time to time order that such and so many of the records, books and documents of the province of Canada as he thinks fit shall be appropriated and delivered either to Ontario or to Quebec, and the same shall thenceforth be the property of that province ; and any copy thereof

or extract therefrom, duly certified by the officer having charge of the original thereof, shall be admitted as evidence.

144. The lieutenant-governor of Quebec may from time to time, by proclamation under the great seal of the province, to take effect from a day to be appointed therein, constitute townships in those parts of the province of Quebec in which townships are not then already constituted, and fix the metes and bounds thereof.

X.—INTERCOLONIAL RAILWAY.

145. Inasmuch as the provinces of Canada, Nova Scotia and New Brunswick have joined in a declaration that the construction of the Intercolonial railway is essential to the consolidation of the union of British North America, and to the assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that provision should be made for its immediate construction by the government of Canada: therefore, in order to give effect to that agreement, it shall be the duty of the government and parliament of Canada to provide for the commencement, within six months after the union, of a railway connecting the river St. Lawrence with the city of Halifax in Nova Scotia, and for the construction thereof without intermission, and the completion thereof with all practicable speed.

XI.—ADMISSION OF OTHER COLONIES.

146. It shall be lawful for the queen, by and with the advice of her majesty's most honourable privy council, on addresses from the houses of the parliament of Canada, and from the houses of the respective legislatures of the colonies or provinces of Newfoundland, Prince Edward Island and British Columbia, to admit those colonies or provinces, or any of them, into the union, and on address from the houses of the parliament of Canada to admit Rupert's Land and the Northwestern territory, or either of them, into the union, on such terms and conditions in each case as are in the addresses expressed and as the queen thinks fit to approve, subject to the provisions of this act; and the provisions of any order in council in that behalf shall have effect as if they had been enacted by the parliament of the united kingdom of Great Britain and Ireland.

147. In case of the admission of Newfoundland and Prince Edward Island, or either of them, each shall be entitled to a representation in the senate of Canada of four members, and (notwithstanding anything in this act), in case of the admission of Newfoundland, the normal number of senators shall be seventy-six and their maximum number shall be eighty-two; but Prince Edward Island, when admitted, shall be deemed to be comprised in the

third of the three divisions into which Canada is, in relation to the constitution of the senate, divided by this act, and accordingly, after the admission of Prince Edward Island, whether Newfoundland is admitted or not, the representation of Nova Scotia and New Brunswick in the senate shall, as vacancies occur, be reduced from twelve to ten members respectively, and the representation of each of those provinces shall not be increased at any time beyond ten, except under the provisions of this act, for the appointment of three or six additional senators under the direction of the queen.

(In 1870 the province of Manitoba was created and doubt having been cast upon the power of parliament to do this, "The British North America Act, 1871," was passed by the Imperial parliament confirming the Manitoba act and the act for the temporary government of the North-West Territories and containing the following provisions :—)

"2. The parliament of Canada may from time to time establish new provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such province, and for the passing of laws for the peace, order, and good government of such province, and for its representation in the said parliament.

"3. The parliament of Canada may from time to time, with the consent of the legislature of any province of the said Dominion, increase, diminish, or otherwise alter the limits of such province, upon such terms and conditions as may be agreed to by the said legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any province affected thereby.*

"4. The parliament of Canada may from time to time make provision for the administration, peace, order, and good government of any territory not for the time being included in any province.

"5. (Section confirming the Manitoba Act, etc.)

"6. Except as provided by the third section of this act, it shall not be competent for the parliament of Canada to alter the provisions of the last-mentioned act of the said parliament in so far as it relates to the province of Manitoba, or of any other act hereafter establishing new provinces in the said Dominion, subject always to the right of the legislature of the province of Manitoba to alter from time to time the provisions of any law respecting the qualification of electors and members of the legislative assembly, and to make laws respecting elections in the said province."

* The provinces of Ontario, Quebec and Manitoba have all been increased in size under this provision.

(In 1886 the North-West Territories were given a representation in the House of Commons of four members. Doubt was thrown upon the power of parliament to do this and an Imperial act was passed in 1886 confirming the Canadian legislation, and providing that :—

“1. The parliament of Canada may from time to time make provision for the representation in the Senate and House of Commons of Canada, or in either of them, of any territories which for the time being form part of the Dominion of Canada, but are not included in any province thereof.”)

SCHEDULES.

THE FIRST SCHEDULE.

Electoral Districts of Ontario.

THE SECOND SCHEDULE.

Electoral Districts of Quebec Specially Fixed.

(The electoral districts of Canada are now as prescribed by the Representation Act, 1914. A new act is passed after each census, *vide* section 51.)

THE THIRD SCHEDULE.

Provincial Public Works and Property to be the Property of Canada.

- (1) Canals with lands and water power connected therewith.
- (2) Public harbours.
- (3) Lighthouses and piers, and Sable Island.
- (4) Steamboats, dredges, and public vessels.
- (5) Rivers and lake improvements.
- (6) Railways and railway stocks, mortgages, and other debts due by railway companies.
- (7) Military roads.
- (8) Custom houses, post offices, and all other public buildings, except such as the Government of Canada appropriate for the use of the provincial legislatures and governments.
- (9) Property transferred by the Imperial government, and known as ordinance property.
- (10) Armouries, drill sheds, military clothing and munitions of war, and lands set apart for general public purposes.

THE FOURTH SCHEDULE.

Assets to be the Property of Ontario and Quebec conjointly.

Upper Canada building fund.

Lunatic asylums.

Normal school.

Court houses in	}	Lower Canada.
Aylmer.		
Montreal.		
Kamouraska.		

Law society, Upper Canada.

Montreal turnpike trust.

University permanent fund.

Royal institution.

Consolidated municipal loan fund, Upper Canada.

Consolidated municipal loan fund, Lower Canada.

Agricultural society, Upper Canada.

Lower Canada legislative grant.

Quebec fire loan.

Temiscouata advance account.

Quebec turnpike trust.

Education, east.

Building and jury fund, Lower Canada.

Municipalities fund.

Lower Canada superior education income fund.

THE FIFTH SCHEDULE.

OATH OF ALLEGIANCE.

I, *A. B.*, do swear, that I will be faithful and bear true allegiance to her majesty Queen Victoria.

NOTE—The name of the king or queen of the united kingdom of Great Britain and Ireland for the time being is to be substituted from time to time, with proper terms of reference thereto.

DECLARATION OF QUALIFICATION.

I, *A. B.*, do declare and testify, that I am by law duly qualified to be appointed a member of the senate of Canada [*or as the case may be*], and that I am legally or equitably seised as of freehold for my own use and benefit of lands or tenements held in free and common socage [*or seised or*

possessed for my own use and benefit of lands or tenements held in franc-alieu or in roture (*as the case may be*), in the province of Nova Scotia [*or as the case may be*] of the value of four thousand dollars over or above all rents, dues, debts, mortgages, charges and encumbrances, due and payable out of or charged on or affecting the same, and that I have not collusively or colourably obtained a title to or become possessed of the said lands and tenements or any part thereof for the purpose of enabling me to become a member of the senate of Canada [*or as the case may be*], and that my real and personal property are together worth four thousand dollars over and above my debts and liabilities.

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ANALYTICAL INDEX

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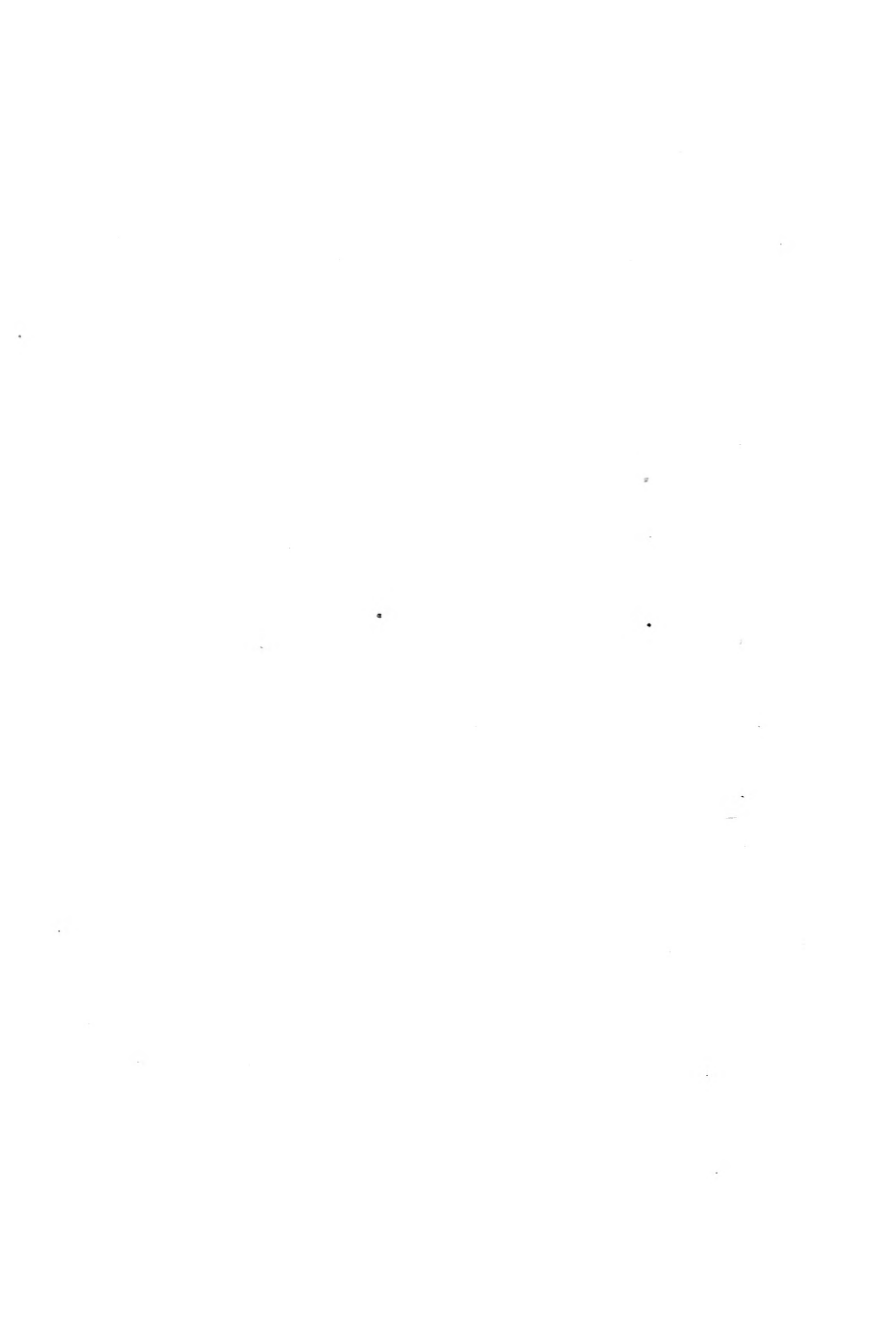
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